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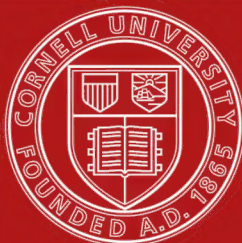
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# TESTIMONY

TAKEN BEFORE THE

JOINT COMMITTEE

OF THE

## Senate and Assembly

OF THE

State of New York

To investigate and examine into the business and affairs of

LIFE INSURANCE COMPANIES

Doing business in the State of New York

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VOLUME II

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BRANDOW PRINTING COMPANY  
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1905

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## COUNSEL

CHARLES E. HUGHES.  
JAMES McKEEN.

## Associate Counsel

MATTHEW C. FLEMING.



ALDERMANIC CHAMBER,  
CITY HALL, NEW YORK CITY.

September 22, 1905.

10.30 O'Clock A. M.

(Met pursuant to adjournment.)

Senator Armstrong in the Chair.

MR. HUGHES: Is there a representative here of the Citizens Central National Bank?

THE CHAIRMAN: Whom do you want, Mr. Hughes?

MR. HUGHES: Henry Dempsey, Cashier of the Citizens Central National Bank.

THE CHAIRMAN: Mr. Henry Dempsey.

MR. HUGHES: Well, I will call Mr. Buckner.

THOMAS A. BUCKNER, recalled, testified as follows:

BY MR. HUGHES:

Q. Mr. Buckner, I was asking you yesterday with regard to the Nylic system for compensation to agents or benefits to agents

*Testimony of Thomas A. Buckner*

in the New York Life Insurance Company. There was a book produced bearing the imprint of January, 1899, headed "Nylic." As a matter of fact, this system was instituted when? A. I think January 1, 1896.

Q. And the book that I now show you was the first book relative to that system? A. Yes; this book is dated November, 1895, and I take it to be the first.

MR. HUGHES: We will mark that for identification.

Marked Exhibit No. 143, for identification.

Q. Will you state briefly what the scheme of the Nylic is, confining yourself in the first place to the Nylic indicated in this book having reference to producing agents, that is, agents who produced business? A. Yes, sir. The Nylic is a body of men drawn from the ranks of those who create the business in the New York Life Insurance Company. It has been established in order to give permanency and character to the work of the soliciting agents. We believe that it aids us in securing and holding good men.

Q. Well, without telling us what you think of its benefits, please tell me first what it is? A. It is a system of compensating agents, used in lieu of renewed commissions.

Q. This system which is simply Nylic as opposed to Nylic for agency directors consists of how many parts or degrees? A. It is divided into five classes, the first class consists of Freshmen Nylics; the second of first degree Nylics, the third of second degree Nylics, the fourth of third degree Nylics and the fifth and last class to senior Nylics.

Q. When this was instituted in 1896, who were admitted as Freshmen Nylics? A. Every agent is admitted as a Freshman Nylic who has written a contract with the company and de-

*Testimony of Thomas A. Buckner*

votes or agrees to devote his entire time to the company. There are some exceptions made in favor of hard-times men, who are allowed to qualify in Nylic but not to become drawing Nylics until they give their entire time.

Q. In order that there may be no confusion, let us look first at the system as it was at first instituted. A. Yes.

Q. And then at the modifications that have been made? A. I haven't got the 1905.

Q. Under the system as it was first instituted in 1896 the period of service required of Freshmen Nylics was five years? A. Yes, sir.

Q. And during that period each Nylic was to annually produce no less than \$25,000 of new insurance on other lives than his own? A. Personally.

Q. And in the regular course of business pay one annual premium thereon and give his entire time to the business of life insurance in the service of the New York Life Insurance Company? A. Yes; except as I stated, there were exceptions in favor of hard-times men.

Q. Yes, exceptions in favor of what you call occasional producers? A. Yes, sir.

Q. Now, during that period of the first five years of service required of Freshmen Nylics, did the Freshman Nylic get any compensation? A. No, sir.

Q. He simply was qualifying for higher degrees? A. For a higher degree in the original Nylics.

Q. And if during that period at any time he failed to get \$25,000 insurance in the manner specified he would——. A. Forfeit all rights and commence over again.

Q. Commence all over again, so he would have to have five years of continuous performance at that rate in order to qualify as a Nylic of the first degree? A. That is correct.

Q. Now, a Nylic of the first degree, under the original system,

*Testimony of Thomas A. Buckner*

was to receive a sum of money equal to 50 cents for each thousand of new business written and placed under the conditions, provided for, during that year of service as a Freshman Nylic, in which his production was smallest? A. Yes, sir.

Q. That is, he got 50 cents a thousand? A. Per month.

Q. Per month for the business or for the amount of business which was written in the year that he was a Freshman Nylic, of the smallest production? A. That is correct.

Q. And the Nylic of the first degree was entitled to that compensation for a period of five years, that is, six dollars a year per thousand— A. I beg pardon.

Q. Six dollars per year per thousand. A. Fifty cents a month; yes, sir.

Q. The same thing. Six dollars per year per thousand on the basis of the smallest production during the period that he was a Freshman Nylic? A. Yes, sir.

Q. Now, if he continued through those years he must in each year continue to give his entire time to the company, and under the original plan produce \$25,000 of insurance per year? A. Yes, sir.

Q. And if he did that he would become a Nylic of the second degree at the end of ten years? A. Ten years; yes, sir.

Q. If he failed to get the \$25,000 a year when he was a first degree Nylic then he would lose everything, would he not? A. Yes, sir.

Q. And have to start back and begin to qualify again as a Freshman Nylic? A. As a Freshman, yes, sir; with certain exceptions.

Q. For the first term of five years? A. With some exceptions, I think, as to sickness.

Q. Now, at the end of the first ten years, assuming that he has produced the \$25,000 of insurance, he becomes a Nylic of the second degree? A. Yes, sir.



*Testimony of Thomas A. Buckner*

Q. And the period of such Nylicism, if I may use the word, is five years? A. Yes, sir.

Q. And during the five years he is to receive, or was on the original basis, a dollar a thousand a month or twelve dollars a year on each thousand of new insurance secured by him during his year of smallest production, while a Nylic of the first degree? A. Yes, sir.

Q. But he must continue to give his entire time and must write on a minimum \$25,000 a year? A. Yes, sir.

Q. In other words, it is twelve dollars a thousand a year on the amount of insurance—the smallest amount of insurance written in any year while he was a Nylic of the first degree? A. It is one dollar a month; that is the equivalent, but it is by the month.

Q. Twelve dollars a year? A. Yes, sir, but it is by the month.

Q. Twelve dollars a year? A. But the basis is by the month.

Q. Now, if he produced the insurance and continued with the company, at the end of the third five years he becomes a Nylic of the third degree? A. That is correct.

Q. And that degree lasts for five years? A. Yes.

Q. I am referring still to the original system. He is to receive monthly a sum of money equal to a dollar a thousand per month on each thousand of new insurance secured by him in the year of smallest production while he was a Nylic of the second degree? A. Correct.

Q. Provided he produces \$25,000 a year of new insurance and continues to give his services to the New York Life? A. Yes.

Q. Then, after the expiration of that period of five years, which means that he shall have been twenty years in the service of the company, producing not less than \$25,000 a year, he will become a Senior Nylic? A. Yes.

*Testimony of Thomas A. Buckner*

Q. And a Senior Nylic is to get, as long as he lives a monthly payment equal to seventy-five cents a thousand on an amount of business equal to the average between the smallest year in each five year period covering the twenty years of service? A. Yes, sir.

Q. That I have quoted from the book? A. Yes, sir; that is correct.

Q. That, however, is not based on any condition that he shall remain in the service of the company, but solely on the condition that he shall not enter the service of any other life insurance company? A. And that he shall give whatever business he does write to the New York Life.

Q. Yes, but after the twenty years and the passage through the Freshman period and the three degrees he can quit work if he wants to, provided he does not write for any other company? A. Of course, we assume that a man who has worked twenty years for the company and become an expert insurance man will not want to lay down his work unless he is too old to work or sick.

Q. Yes, but we are speaking of his rights in the matter. A. Yes, sir.

Q. Now, at the time this system was put into effect there was, of course, a large number of agents in the company's service, and a system was devised by which they should receive credit for half the length of their actual past service in the company? A. Yes, sir.

Q. It was provided, for example, that all regular agents in the company's service who should receive credit for less than five years' service, should be placed—— A. At that point the Freshman——

Q. At that point within the five years' service required of Freshmen Nylics as would be involved by the operation of the

*Testimony of Thomas A. Buckner*

rule in which they got credit for half the length of time? A. Yes, sir.

Q. Now, when such agent, getting credit in that way, became a Nylic of the first degree, it was provided that the company would strike an average between the year of his smallest production during the period of his entire service prior to his becoming a Freshman Nylic and the amount of his production in the year of the completion of his period of service as a Freshman Nylic in which his production should be smallest. A. Yes, sir.

Q. Then there were men in your employ at that time who had been in the company's service for more than five years? A. Yes.

Q. And they were introduced at once into the grade of Nylics of the first degree, were they not? A. Or second, as the case may be.

Q. Or second? A. Yes.

Q. Or third? A. According to what they were entitled to, by giving them credit for one-half of their actual service.

Q. So that, to give an illustration, we have the case of Mr. Richard Røe, who on January 1, 1897, had served for such a time that under the rules stated he was entitled to credit for six years? A. Yes.

Q. He would become at once a Nylic of the first degree? A. Yes.

Q. During the six years for which he thus had credit, the year of smallest production was, we will say, 1889, in which he wrote \$60,000? A. Yes.

Q. But in the year 1888 he wrote \$100,000 and in the year 1890 he wrote \$80,000, so that the company would take an average between 1888 and 1889, and give him, as the basis of his monthly payment as a Nylic of the first degree, \$80,000? A. As the basis, yes.

*Testimony of Thomas A. Buckner*

Q. Yes, as the basis. A. Yes.

Q. That is the practical construction of the rule that has been referred to? A. Yes, sir, as an illustration of the rule.

Q. Now, getting credit for six years, which implies a 12 year period of service, he would be introduced as a Nylic of the first degree, with one year already to his credit? A. Yes.

Q. And he would remain four years, from 1886 to 1889, as a Nylic of the first degree, and during those four years he would get an agreed monthly payment upon the basis of \$80,000, which was the average between the year of smallest production during his qualifying period and the year of largest production? A. Yes.

Q. Now the same thing, with the facts and figures changed to meet the case, would occur when a man had been in the service of the company say for 16 years, or say for 20 years? A. Yes.

Q. And was entitled to be introduced as a Nylic of the third degree? A. Yes. We did what we thought was fair to the old men.

Q. And similarly, a man introduced into the order of Senior Nylics who had been with you—— A. I don't think anyone received credit enough to become at once a Senior Nylic.

Q. The fact that he got credit for only half his time would rather prevent that? A. Yes. We have now altogether, I think, only three Senior Nylics at the present date.

Q. Now, these men who were already agents of the company when this was introduced in 1896, that is those of them who became Nylics of the first and second and third degrees, received these monthly payments per thousand upon insurance which had been written by them prior to 1896? A. Yes, sir.

Q. Insurance for the writing of which they already had been fully paid under their contracts? A. Yes, this was given to them as a reward for faithful service, by the company.

Q. It was in the truest sense a bonus, because they had already been paid for all that they had done? A. Yes, sir.

*Testimony of Thomas A. Buckner*

Q. In the years to which this reference was made? A. Yes, our old agents felt that they should be given full credit for the time they had been in the company, just the same as new men the company acquired, and the company gave them one-half credit for the time of service.

Q. Do you know how much money the New York Life Insurance Company paid out under that system to your agents on account of business which had already been paid for before this system went into effect? A. No, sir, I do not.

Q. Can you supply these figures? A. I think so—it would be a very great undertaking because each account would have to be looked over individually, but I do not think it is a large amount, relatively a small sum.

Q. How many agents did you have working for you 12 years? A. Of course, a great many of these agents really will receive less in Nylics because of taking credit for old service, than they would if they had commenced new.

Q. They did not have to surrender their contracts to take Nylic? A. No, but they had to go on a different basis.

Q. Nylic, as I understand it, is optional? A. Well, no, Nylic is general.

Q. Nylic is in addition to the regular agency compensation as to which testimony was given yesterday? A. Yes.

Q. In other words, the right on the first year's premium, ranging from 40 to 60 per cent, which you explained yesterday, varying according to the amount and character of the insurance and the additional payments made in subsequent years on renewal premiums—— A. When renewal premiums are received——

Q. Yes, those are entirely apart from the Nylic payments to which reference has been made this morning? A. Yes, but I don't think you get the great point that these old men, a great many of them, will receive and have received up to date less through Nylics because of the credit that we gave them for their

*Testimony of Thomas A. Buckner*

service prior to the introduction of Nylic than they would have received if they had started fresh. They were handicapped by virtue of taking their old record, which were lower than they had received since, or would have been under the old system.

Q. What you mean is that they will receive less from Nylic as members of Nylic by reason of the credit given to them on account of their past service before Nylic was instituted? A. Yes.

Q. Then they would have received from Nylic, had they joined Nylic in the first instance, and not received the limited term of service? A. No, sir, had they joined Nylic when Nylic was introduced, as new members.

Q. Yes, as new members. A. Yes, sir.

Q. But whatever they got as members of Nylic, and however it may compare with what they would have had had they joined Nylic as new members, they got it in addition to what had been paid them under their contracts for writing the insurance in the past years? A. Yes.

Q. Now, not only in this way would men be introduced to the first, second and third degress as their terms of service would permit, but men would be given credit for periods of service to aid them in qualifying them for the first degree? A. Yes, sir.

Q. For example, a man who had been in the service of the company for eight years prior to January 1, 1896, would get credit for four years as against the prescribed term of five years that he had to serve as a Freshman Nylic? A. Yes.

Q. And then when he became, after one more year of service, a Nylic of the first degree he would get compensation on the year of smallest production for the entire period of nine years, that is, eight years which were used to supply him for qualification and the additional year to finish his term of freshman service? A. I think it was on the average between the smallest year in the eight years and the one additional year.

*Testimony of Thomas A. Buckner*

Q. That is right, on the basis of the average? A. Yes.

Q. So that in this way he would be quickly introduced or within a year introduced into the first degree and then would be allowed an additional compensation to that which he had received under his contracts for insurance which had been written before Nylic went into force? A. Yes. A great deal of consideration was given to that subject, Mr. Hughes, at the time, and we believed that these old men would render great service to the company in connection with the development of **new men and securing new men**, and that was one of the considerations which led the company to extend credit for one-half of their time to men who were with us prior to 1896. I would like to say right here, if you do not object, Mr. Hughes, that the total cost of Nylic to date, which we consider in effect a renewal commission, is less than, and has been less, and is **now less, than one per cent.** of the renewal premiums.

Q. I would be very glad to have the figures on those matters produced. A. Yes.

Q. But now we will get the system, we will see what in practice it means as an expense to the company or as a benefit, as you have explained in holding your agents together and maintaining the solidarity of the agency system? A. Yes. I hope at the proper time you will give us permission to state the benefit.

Q. Yes, I want you to have an opportunity to state them very fully. A. Yes, because we believe it to be a better system and a very much cheaper system to the policyholders than the renewal of premiums.

Q. I want to get at what the system is now, and you can then state what you think are the benefits derived from it, and we can then find out just what is the cost and how that cost should be applied. A. Yes.

Q. The company in making the arrangement for Nylic pay-

*Testimony of Thomas A. Buckner*

ment laid down certain rules that the termination of an agent's contract terminated all his right in Nylic? A. Yes.

Q. Absolutely? A. Yes, sir, except in case of death. Termination in case of death is provided for two or three months, I think, or six payments are allowed in Nylic, payments in the event of death.

Q. That was by the second rule, was it not? A. I think originally perhaps not.

Q. Yes, I guess it is. That is the rule seven to which we will come in a minute. It was also provided that business written by the collection of a quarterly or semi-annual premium would ultimately be counted, provided sufficient subsequent premiums thereon were collected to cover one year's insurance, but any business which lapsed before that had been done should not be considered? A. Yes.

Q. It was further provided that any Nylic who took exception to the ruling of the Agency Department on any question which seemed to affect his interest as a Nylic should have the right to appeal to the president of the company and that the president's decision should be final? A. That is true.

Q. Also that the company for a period of six months would pay to the estate of any Nylic in good and regular standing in the first, second or third degree or to the estate of any Senior Nylic upon his decease whatever monthly income on account of Nylic the deceased was enjoying at the time of his death. A. For six months.

Q. Yes, for six months. A. Yes, sir.

Q. Paid to his estate? A. Yes, sir. Right there is one of the very great advantages of Nylic over renewal contracts, because only six months' payments go after death and nothing after the termination of contracts, while renewal contracts provided for long renewals and payments to the estate after



*Testimony of Thomas A. Buckner*

death and also for long renewals to the man himself after the termination of his contract.

Q. Your contracts do not provide for that? A. No, but the old one did.

Q. You mean provided prior——. A. Prior to the introduction of Nylic.

Q. Prior to 1896? A. Yes.

Q. Then the company reserved the right to modify or change any of the conditions of Nylic and expressed in this prospectus? A. Yes.

Q. Who determined the conditions of Nylic? A. They were determined by the officers of the company.

Q. Was any committee appointed to determine the condition of Nylic? A. They were submitted to the agency committee and finally approved by the full Board of Trustees.

Q. Now in addition to the payment to Nylics of the first, second and third degree and the Senior Nylic payment and the provision for a payment to the estate for six months on the death of a member in good standing, there were also certain post-mortem benefit as expressed in a resolution adopted November 13, 1895, were there not? A. Yes.

MR. HUGHES: I will read that resolution: "Resolved, That the New York Life Insurance Company will pay as part compensation for his services while in its employ to the estate of every agent in the United States and Canada who shall die in its service during the year 1896 and who shall have complied so far as possible at the time of his death with the conditions provided for membership in Nylic, and who shall have secured the amount of business allotted to him for November and December, 1895, by the agency department, a sum equal to one dollar for each thousand dollars of insurance written and paid for by said

*Testimony of Thomas A. Buckner*

agent between January 1, 1895, and the date in 1896 when such agent may die."

THE WITNESS: That is, if he dies within the year.

Q. That is supplemented by the statement in your book that it is the intention of the agency department as the Board of Trustees to pass a similar resolution annually carrying the benefits forward from year to year.

Q. So that, for example, a man who entered the service of the company January 1, 1895, working constantly until January, 1905, and thereby having presumably complied both as to his term of service as a Freshman Nylic and as a Nylic of the first degree, and then dying, his estate may receive a sum equal to one dollar for each thousand dollars of insurance written and paid for during his entire period of connection with the company? A. That is correct from the books. I recall that.

Q. Have such annual resolutions been passed? A. I think they have. The total payments under the mortuary feature up to date are \$23,000 in the ten years.

Q. Is that exact, one dollar for each one thousand dollars of insurance written and paid for during the entire period of his connection with the company? A. Yes, sir; if he dies during the year covered by a resolution.

Q. Well, there is a resolution covering each year from 1896? A. I think there has been.

Q. That means to be taken cumulatively, not based upon any particular year's production. A. Yes, sir, cumulatively. It amounts to a very small sum in any event. It is what we intended as a sort of burial fund.

Q. Now, a prospectus was again published in 1896 of Nylic and in 1897 and in 1898, which continued the system on practically the same basis, and then we come to 1899, where, I un-

*Testimony of Thomas A. Buckner*

derstand, the company, under its reserve powers, made certain important changes? A. Yes.

Q. In the first place, the minimum of insurance which it was necessary to obtain in order to qualify and to maintain qualification was changed from \$25,000 to \$50,000. A. That is correct.

Q. How were men affected who had previously been on the \$25,000 basis? A. Not at all.

Q. Their qualification up to that time was a fixed thing on the \$25,000 basis, but from that time on they had to write \$50,000 a year? A. No, sir; their basis remained under the same rules. The changes applying only to men employed subsequent to that time.

Q. Only to new members? A. Only to new members.

Q. So that all those who became members of Nylic prior to January 1, 1899, are on the \$25,000 basis? A. Yes.

Q. And will continue to be on that basis as they graduate from class to class? A. Yes.

Q. As to the payments provided for in this prospectus No. 5 of January, 1899, I find that the monthly income for Nylics of the first degree was 50 cents per thousand on the average between the amounts of business secured and paid for during the first Nylic year and the amount of business in force on the company's books on December 31st of the fifth Nylic year. A. Yes, that is for the sixth year of service, is it not?

Q. That, as I understand it, is for the sixth year of continuous membership. A. That is right.

Q. Being the first year of his being a Nylic of the first degree? A. That is right.

Q. Instead of taking the year of smallest production as a basis of payment to Nylics of the first degree under this system inaugurated in 1899, you take the average between the first year of a Freshman Nylic and the fifth year of a Freshman Nylic and

*Testimony of Thomas A. Buckner*

pay upon that basis 50 cents per thousand on business written and paid for? A. No, sir; I think you are mistaken. We take the average between the business he writes during the first year of Nylic membership, and the amount of said business that is remaining in force on the company's books, on December 31st of his fifth Nylic year. And that forms the basis for the one year only, that is for his sixth year of continuous service.

Q. The first Nylic year meaning the first year as a Freshman Nylic? A. Yes.

Q. And the fifth year as a Freshman Nylic? A. Yes.

Q. Now, the seventh year of membership in the new system, that is the second year of his being a Nylic of the first degree, the monthly income was to be equal to 50 cents a thousand on the average between the amount of business procured and paid for during his second Nylic year, and the amount of said business in force during the sixth Nylic year? A. That is right, five years later and so on.

MR. HUGHES: Someone must have sat up nights working this out.

Q. Under the eighth year, or the third of his being a Nylic in the first degree, the monthly income was to be 50 cents a thousand on the average between the average of the business of the third Nylic year and of the business in force at the end of the seventh Nylic year. A. Yes.

Q. The rate being 50 cents per thousand? A. Yes.

Q. Did the rate of fifty cents per thousand apply to those who had become Nylic members previous to 1899? A. That was the rate in the old rule, under the old rule.

Q. Yes, did the basis——. A. The basis applied only to men who became Nylic members after the rule was introduced.

Q. Nylics of the second degree, under the new system, were

*Testimony of Thomas A. Buckner*

to receive monthly as follows: For the eleventh year, that is, the first year of the second degree, a dollar a thousand on the average business procured and paid for during the six Nylic years, and the amount of business in force at the end of the tenth year?

A. The amount of said business, yes.

Q. The amount of said business. A. Yes.

Q. And similarly to the period of the second degree on the basis of one dollar per thousand? A. Yes.

Q. That basis only applies to the new members? A. Yes.

Q. Nylics of the first degree got \$1.50 a thousand and their basis was fixed upon a similar average? A. A similar average.

Q. Of the business secured and paid for in the first year while they were Nylics of the second degree and the amount of said business in force at the end of the last year that they were Nylics of the second degree? A. Yes.

Q. And then senior Nylics were to receive, as long as they lived, as follows——. A. Under the conditions stated.

Q. Well, I will read it. The basis of Senior Nylics.

“Senior Nylics shall receive, so long as they live, provided only they shall not enter the service of any other life insurance company, monthly payments as follows:

“The basis of business for incomes for the 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, and 20th years of continuous Nylic membership will be added together and divided by 15. The sum thus obtained will then be averaged with the amount of new business written and placed under the conditions provided above during that year of service as a Third Degree Nylic in which his production was smallest, after deducting from same the amount of business placed during said smallest year which has, for any cause, ceased to be in force up to December 31st of his nineteenth Nylic year. His monthly income as a Senior Nylic shall be 75 cents per thousand on the average, or amount, thus obtained.”

*Testimony of Thomas A. Buckner*

That applied only to the new members? A. Only to members coming in since the date of introduction of the changes.

Q. There was also a provision in each of these for occasional contributors, which it is unnecessary for us particularly to read?

A. Only to say that no one could participate or draw any benefits out of Nylic unless they were giving their entire time, talents and energies to the company, in soliciting business.

Q. It is provided that, in case of physical incapacity, the fact of the disability being established to the company's satisfaction, a member shall receive monthly an amount equal to his average monthly payment that he has received from the beginning of the degree of which he is a member at the time of such disability?

A. Yes.

Q. And that these monthly payments are to be continued during the continuance of the disability not exceeding five years in all, and at the end of such period all further payments to the agent on account of Nylic shall cease, but if he recover and resumes work, then the company will make such adjustment as in its judgment seems fair and right. A. Yes.

Q. It is also provided that any Nylic who shall leave the company's service for any cause except for permanent physical disability, who shall pay for less than fifty thousand dollars of annual insurance in accordance with the rules stated in any calendar year, shall cease to be a Nylic, and forfeit any claim for any time, credit, or payment. A. Yes.

Q. Term insurance does not count in the Nylic? A. No, sir.

Q. No salaried employee can become a Nylic? A. No, sir.

Q. No agency director, manager, nor general agent in control of territory or having sub-agents can be a Nylic? A. No, sir.

Q. Only personal business is counted in determining a Nylic's record? A. That is correct.

Q. It is further provided in the book of 1899 that if a commission, brokerage or bonus of any kind is paid to anyone for

*Testimony of Henry Dempsey*

services rendered in procuring business, such business is in so far not personal business, and will be reduced in proportion as the amount so paid bears to the agent's commission? A. Quite right.

Q. How do you find out whether a brokerage bonus or commission has been paid? A. We require every agent, when he submits an application for insurance, to make a written statement of any other parties than himself interested in the case, and whether or not any other parties are to receive a commission or brokerage or per cent of any kind for assisting in procuring the risk.

MR. HUGHES: Will you withdraw for a moment, please?

THE WITNESS: Yes, sir.

MR. HUGHES: Mr Dempsey, will you take the stand?

HENRY DEMPSEY, called as a witness, being duly sworn, testifies as follows:

BY MR. HUGHES:

Q. Mr. Dempsey, you are connected with the Citizens' Central Bank? A. Yes, sir.

Q. In what capacity? A. Cashier.

Q. Does Andrew Hamilton have an account at that bank? A. Yes, sir.

Q. Have you produced a transcript of that account? A. Yes, sir.

Q. Is this a complete transcript of the whole account? A. Yes, sir.

Q. It commences there, does it (indicating)? A. Yes, that is right. You will find a summary there.

*Testimony of Thomas A. Buckner*

Q. This account was started with the Central National Bank?  
A. This sheet here will show the deposits.

Q. The account started with the Central National Bank and was afterward continued with the Citizens' Central National Bank? A. Yes.

Q. And the sheet marked 4 of 4 shows the deposits? A. Yes, sir.

Q. And the other sheets marked 1 of 4, 2 of 4 and 3 of 4 shows the drafts? A. Yes, sir.

Q. You have no particulars except what are shown on those sheets? A. No, sir.

MR. HUGHES: I will have these four sheets produced marked for identification.

(Marked Exhibit 144 for identification.)

THOMAS A. BUCKNER resumed the stand.

BY MR. HUGHES:

Q. Another prospectus was published in 1899—isn't that a mistake? A. I think it is the same thing, Mr. Hughes. I think they must have taken it just by the color on the back. The additions are the same.

Q. No, this isn't the same. This has only 23 sheets and this has 29? A. Well, it is a reprint, I think, of this, omitting.

Q. I find this prospectus under the imprint of 1899, a subsequent one, making provision for payments for two years' Nylic service? A. Yes, sir.

Q. That was an innovation? A. Yes, sir.

Q. And that was introduced when? A. I think January 1, 1899—no, I beg your pardon. I think it was introduced in 1901. I see the addition is marked here, Mr. Hughes.



*Testimony of Thomas A. Buckner*

Q. Yes. So that this book, while the titlepage has the imprint of 1899, is really a subsequent issue? A. Yes, sir.

Q. Of 1901, with certain modifications of the prior system? A. Yes, sir.

Q. And one of those modifications is that while the period of freshman service continues to be five years the Freshman Nylics are to receive certain payments monthly for two years of such service? A. Yes, sir.

Q. So that the payments begin in the third, instead of the sixth year of continuous membership? A. Yes, sir.

Q. And those payments are 25 cents per thousand dollars on the amount procured and paid during the first Nylic year after deducting from the same the amount of said year's business which has lapsed, been cancelled or otherwise terminated to December 31st of the second Nylic year? A. That is correct.

Q. And then for the fourth year of Nylic service the Freshman Nylic was to get the monthly income of 25 cents per thousand on the amount of business produced and paid for in the second Nylic year, after deducting from the same the amount of said year's business which had lapsed, been cancelled or otherwise terminated up to the end of the third Nylic year? A. Yes, sir.

Q. And so on, on a twenty-five cent basis per thousand monthly during the period. A. During the last three years' period?

Q. During the last three years' period of Freshman service? A. Of freshman service, of Freshman Nylic.

Q. Then the Nylics of the first degree went on on the same basis. That was not changed? A. I think there were no changes in the other degrees in that issue.

Q. I don't see any statement of mortuary or post-mortem benefits after the first prospectus? A. No, sir; I don't think they were printed in the pamphlet.

*Testimony of Thomas A. Buckner*

Q. Yes, it is in Nos. 2, 3 and 4. A. Not always, at least.

Q. Well, when this changed system was introduced that prospectus No. 5, issued in January, 1899, were there any mortuary benefits extended to those who became members at that time?

A. Yes; but it was not printed in this book.

Q. It has been continued, however, then on the same basis?

A. I think so, right up to date.

Q. I don't find it there in the book published in 1901 to which I have just referred? A. No, it was not published in the books after that.

Q. However, the resolutions are in the same form as the one I read in evidence? A. I think so. I think they have been regularly put before the board.

Q. Then in 1903 there was another prospectus issued, and in that year pure endowment insurance was disallowed as a part of that on which payments should be made. Am I right in that?

A. I don't know as that—is that the only change?

Q. Well, I am not certain. A. I think the only changes are the changes in the general rules.

Q. To wit, that term and seven year—. A. Seven year equalization.

Q. Seven year equalization insurance, as well as the pure endowment insurance, are excepted from the minimum which must be produced? A. Yes, sir.

Q. That installment insurance counts for its computed value that is insurance on an agent's own life, if written in accordance with the rules therefore will count in Nylic, provided the same is not required to bring the sum up to the qualifying mark in any year? A. Yes, sir.

Q. Then in 1905, January last, there was another prospectus of Nylic and certain modifications were then made? A. Material modifications were made.

Q. Material modifications were made. Before I speak of those

*Testimony of Thomas A. Buckner*

modifications, let me ask if they affected those who were already members of Nylic? A. They did not.

Q. Those who were introduced under the first system continued on that? A. Yes, sir.

Q. And those who came in under the system of 1899 continued in that? A. Exactly.

Q. And now in 1905 you have inaugurated a modified system which applied to the new members? A. Exactly.

Q. What are the modifications? A. The chief modifications are that in the second degree instead of the basis being \$1.00 per thousand it is \$0.75 per thousand, and in the third degree instead of a basis of \$1.50 per thousand it is reduced to \$1.00 per thousand, and then there are some changes in the Senior degree in the method of ascertaining and defining the compensation.

Q. In the first degree there is a little difference in the basis of the computation on the payments, is there? A. Not from the previous one that you read, I think.

Q. It is marked so here. Well, there are some modifications providing in the case of the first degree for a reduction of what has been lapsed and cancelled, which was specifically stated before? A. Yes, that is true. It is a refinement of the language, I think.

Q. Yes. Do you charge the compensation which is paid to a member of Nylic on business which has been written in a particular year against the—or to the cost of writing the business of that year? A. No, sir. We charge the Nylic compensation entirely as a renewal payment—to what we call renewal commissions.

Q. In other words, a certain amount of insurance was written in the year 1904—. A. Yes.

Q. Upon that insurance in the course of time payments will be made upon the conditions stated to Nylics? A. Yes, sir.

*Testimony of Thomas A. Buckner*

Q. Payments will be made of increasing amounts? A. Not on that year's business.

Q. Well, there will be payments upon that year's business? A. Conditioned upon the renewal—in part conditioned upon the renewal of the business.

Q. In part, yes. Now, you don't charge that to the expense of getting—. A. At the present time it is solely conditioned on the renewal of business.

Q. And there is a great deal that is not? A. Yes, sir.

Q. For instance, all the Nylics who are on the 1896 basis do not have their payments conditioned on the renewal of business? A. No.

Q. But everything since 1905 is so conditioned? A. Entirely upon the renewal of the business, and between those dates in part upon the renewal of the business.

Q. Yes. A. We treat it as a renewal commission.

Q. You don't charge any of that expense, or calculate it in determining the cost of the particular business in the year 1904? A. We couldn't do so because we don't make the payments until some time afterwards.

Q. Well, you make no computation to determine what that would be? A. No, sir.

Q. You take the Nylic payments that you actually make in a given year and proportion them under renewal commissions. A. They are charged up under renewal commissions.

Q. They are charged up under renewal commissions? A. Yes, sir.

Q. Do you apportion them to the business of any particular year? A. We do not.

Q. Simply as renewal commissions? A. Paid during that year.

Q. Paid during that year? A. Because it must always be

*Testimony of Thomas A. Buckner*

remembered they are conditioned upon the renewal of the agent's contract upon his continuing with us right along.

MR. HUGHES: I will mark this last one No. 8, for identification.

(Marked Exhibit No. 145, for identification.)

THE WITNESS: Mr. Hughes, before you leave the subject of Nylic, may I say that the reason for these changes in the Nylic program has been because we are constantly getting together now as drawing Nylics a body of men who are to be permanently with the company and we do not feel that the necessity for as much money paid through Nylics exists now as formerly, and it is our intention to eventually, when we have, say a thousand men drawing Nylics, to not permit any new additions unless to fill vacancies created by deaths or termination of contracts.

Q. How many agents have you now who are Nylics? A. We have, including Freshman Nylics—including all Nylics 916.

Q. How many agents have you who are not Nylics? A. Over five thousand.

Q. Please explain that. A. Do you mean why we have no more?

Q. Yes. Because for a Nylic that he must write a definite amount of personal business, per annum.

Q. That is the reason? A. And that he must give his entire time to the company, and he has to qualify under the rules laid down in Nylic, and there are five thousand agents who do not qualify.

Q. How many Nylics have you who are Freshman Nylics? A. 409.

Q. How many Nylics of the first degree? A. That I haven't got, but of the first, second, third and senior degrees, 507.

*Testimony of Thomas A. Buckner*

Q. And I think you said you had three seniors? A. I think it is three; yes, sir.

Q. How many members of Nylics have you who became such members when the system was inaugurated, that is how many have——. A. Are now Nylics.

Q. Have persisted? A. I think very few; not a hundred, I should say.

Q. Not a hundred? A. No, sir.

Q. How many Nylics have you who became Nylics under the system of 1899? A. I should say about the same number.

Q. About a hundred? A. Yes, sir; that is only an estimate, a hasty estimate.

Q. How many new members come under that system? A. Of that I have no data.

Q. I want to see how far it has been beneficial in binding the agents to the service of the company. A. Yes, sir. We think it has been beneficial, more so than any system we have ever known of.

Q. I wanted to get at the statistics which would show that? A. Yes, sir. I could get you that, but I haven't it here.

Q. Yes. Now, you have another Nylic system called Nylic for agency directors? A. Yes, sir. That is an entirely different——

Q. An entirely different thing, but it has no other name than Nylic for agency directors? A. That is the name we have given it.

Q. That system was inaugurated—— A. January 1st, 1902.

Q. This book I have here is the prospectus? A. That is the prospectus for the year 1902.

MR. HUGHES: You may mark that for identification.

(Marked Exhibit No. 146 for identification.)

*Testimony of Thomas A. Buckner*

Q. Now, who are the members of this system, or who are qualified to become such? A. The agency directors, supervisors **and inspectors of agencies of the company**; all men occupying similar positions in other countries under whatever title.

Q. That is, in the United States, Canada, Mexico, and the West Indies? A. Yes.

Q. In many other countries? A. Well, we have a few in the later editions in Europe.

Q. That was the way it started? A. That was the way it started. Prior to the inauguration of Nyllic for agency directors, we had found it advisable to offer incentives to agency directors who were purely on salaries—largely on salaries, to direct their attention specifically to certain features of the business, to the volume that they should secure in their departments to the cost of the business and to the organization—that is, securing new agents. These bonuses we had been in the habit of paying in cash to the agency director at the end of the year, and they varied **in different parts of the country**. We introduced Nyllic for agency directors to accomplish the same purpose, but in an orderly way, and in the same way for all sections of the domestic business—all sections of the country and on equal terms to all.

Q. The persons qualified to become members must have been on a salary? A. Must be salaried men. There were a few exceptions to that rule, being salaried men in the beginning. At the present time there are no exceptions.

Q. When this was started in the year 1902 a fund was created and certain trustees of the fund were appointed. Who were the trustees? A. The trustees were to be at that time the first and second vice-presidents and the actuary of the company.

Q. That is, Mr. Perkins? A. Dr. Duke.

Q. Dr. Duke——. A. They happened to be at that time Mr. Perkins, Dr. Duke and Mr. Weeks.

*Testimony of Thomas A. Buckner*

Q. Who are they at the present time? A. At the present time they are Mr. Perkins, Mr. Kingsley and Mr. Weeks.

Q. Now, a fund was created and placed in the hands of the trustees under an agreement consisting first of a certain amount of the fixed salary of each agency director as he might direct the company to retain and pay over monthly to the trustees, not exceeding 20 per cent of such salary? A. Yes, sir, of the salary.

Q. Then an amount equal to 25 per cent of whatever proportion of the fixed salary each agency director directed to be paid over to the trustees, and that amount the New York Life paid to the trustees. A. As a bonus, yes, sir, to the agents—to the agency director.

Q. That is, the New York Life put into the hands of the trustees an amount equal to one-fourth of what each agency director put in the hands of the trustees out of their salaries? A. Well, we agreed with the agency directors that we would place twenty-five per cent with every dollar that they put up with the trustees, for their benefit.

Q. In the next place the company agreed to put up with the trustees an amount equal to an additional bonus of twenty-five per cent. of the agency directors' salary paid over to the trustees. A. Well, that is what it was.

Q. This is a third item? A. Yes. We agreed that this first year, that on January 1, 1907, we would pay an additional bonus of twenty-five cents on the dollar for every dollar that the agency director deposited in 1902 from his salary conditioned, of course, upon that agency director being with us and continuing with us after January 1, 1907.

Q. You mean up to January 1, 1907? A. Up to January 1, 1907; yes, sir.

Q. Then fourth, the bonus or prize money won by an agency director during the preceding year, if he directed it to be paid to



*Testimony of Thomas A. Buckner*

the trustees? A. Yes, and we also agreed to pay an equal amount as an additional bonus under the terms of Nylic for agency directors.

Q. That is, if an agency director won a bonus or prize money——. A. In 1901.

Q. In 1901. A. He could deposit that.

Q. He could deposit that with the trustees, and you would put up, that is, the company would put up, in the hands of the trustees, an equivalent sum? A. An equivalent sum. That was only for the single year 1902.

Q. Well, we are getting the system now, and we will show the modifications later. A. Yes.

Q. Then in addition to that the company agreed to pay a bonus of 20 cents per thousand on the business paid for and reported on cashier's transcripts during 1902 from each of the nine departments into which the United States, Canada, Mexico and the West Indies have been divided? A. Yes.

Q. Providing such department secures the amount of paid for business allotted and fixed by the company for the year 1902? A. That is correct.

Q. If the department secures 95 per cent. of its allotment the bonus is to be 15 cents a thousand, and then graded on a reduced amount? A. Well, only one more grade, I think.

Q. Well, if 85 per cent. the bonus would be 5 cents per thousand. If less than 85 per cent., no bonus? A. That is right.

Q. A further bonus was a bonus of 20 cents per thousand, which would be allowed paid by the company on business paid for and reported on cashier's transcripts during the year 1902 from each branch office in the United States, Canada, Mexico and the West Indies, if such office secures its allotment of paid-for business? A. That is right.

— Q. With reduced percentages—— A. In the same way.

Q. In the same way. Then finally each director was to be

*Testimony of Thomas A. Buckner*

debited by the company in writing with the number of standard agents in his branch office on the 1st of January, 1902, and to be credited on January 1, 1903, with a bonus of \$100, to be paid by the company for each standard agent then in the employ of the company and operating through the branch office in excess of the standard agents debited on the 1st of January, 1902? A. That is right.

Q. Only bona fide agents, effective agents, to be considered? A. Yes, sir.

Q. Now, by the contribution of those various amounts this fund, Nylic fund for agency directors, was created? A. Yes, sir.

Q. And the agreement was made with the trustees——. A. I should say it was created by the department from the agents' salaries and the bonus of 1901 which he put in the hands of the trustees, plus the 25 cents on a dollar that the company gave, and the bonus of which you have latterly referred there on the business of 1902 was not on the creation of the fund; it was a year later.

Q. Well, the bonus as promised——. A. Oh, yes.

Q. But to go into the fund, provisions for which were then made? A. Yes.

Q. I speak of the creation of the fund, I speak of the fund in its totality as it was actually created in the start, and as it was to be reinforced by the subsequent payments for that year? A. Yes.

Q. Now, the funds were to be managed by the trustees under the agreement set forth here? A. Under a trust agreement.

Q. Yes, under an agreement by which the trustees agreed to receive these moneys and disburse them in their discretion, and to make a gross accounting at the end of each year showing the aggregate amount of all moneys in their hands. This agreement provides, in paragraph 7, that if any beneficiary shall cease

*Testimony of Thomas A. Buckner*

to be an employe of the New York Life Insurance Company either by discharge, resignation or death, prior to January 1, 1912, there shall be paid to him or his estate from the funds in the hands of the trustees an amount equal to the total cash received for the trustees from the company for his benefit in accordance with sub-division 4B and C of Article 4 hereof, which subdivisions relate——. A. To the moneys he deposited.

Q. To the moneys received from the member as a part of his salary or as a part of emoluments, prizes or moneys paid over to him? A. Which he had already earned.

Q. Yes, and interest thereon at 6 per cent. for the average time such amount has been in the trustees' hands and such payments to be in full liquidation of all claims of interests of any kind in said funds? A. Yes, sir.

Q. That is, he got his money back that he had himself put in? A. Yes, with 6 per cent.

Q. But no part of the other moneys which you had put in or which the other agency directors had put in or of the increase of those funds? A. Exactly.

Q. It was a sort of a tontine system? A. Yes; it was a sort of a co-operative system.

Q. Then it is provided that on January 1, 1907, any beneficiary shall have the full option from the agreement and receiving in full of all claims one-half of the amount then equitably belonging to him. That is rather curiously expressed, but then the intent is clear. He can have the option of withdrawing or getting half of the amount then equitably belonging to him. What does that mean? A. Well, I don't like to interpret that agreement, but I think that would be one-half of the amount that would belong to him were the trust at that time to be liquidated.

Q. Then it is provided further that on January 1, 1912, the funds in the hands of the trustees shall be equitably divided among the then surviving individual beneficiaries? A. Yes, sir.

*Testimony of Thomas A. Buckner*

Q. So this looks to a holding of these funds without distribution except in the case of withdrawal of members until January 1, 1912? A. That is right.

Q. These funds being annually increased by contributions annually in the manner described? A. Well, that is not a part of the agreement. If the companies do make—do make an annual proposition then they are to be made and go in that way.

Q. Well, this annual proposition had reference solely to the year 1902? A. 1902 only.

Q. Then that fund created and contributed to in the manner described for the year 1902 was to be held and disbursed in the discretion of the trustees subject to deduction only by withdrawals of those who ceased to be members in the manner described, until January 1, 1912? A. Yes, sir.

Q. And then whatever moneys were at hand were to be divided equitably among the then surviving individual beneficiaries? A. Surviving and continuing, yes, sir.

Q. Now then continuing? A. Continuing with the company.

Q. Well, you had to divide it up at that time whether they continued later— A. I say it is to be divided among those who have continued until later.

Q. It doesn't say so. It says among the then surviving. There is a condition later perhaps? A. There is a condition in the agreement.

Q. We have already read a condition which provides for the interest of those who cease in the interim to be connected with the company? A. One of the chief objects of the program of compensation is to hold the agency directors in the service of the company.

Q. Yes. Now, that being the purport of the agreement—I should add the trustees were not to have any salary, were they? A. No compensation whatever.

*Testimony of Thomas A. Buckner*

Q. No compensation whatever, and, on the other hand, they were not to be personally liable in any way? A. No.

Q. They have a broad discretion regarding the matter. Now, as a part of that there was an agreement for part compensation for services in the event of death in the company's service. That is true, is it not? A. Yes; a mortuary feature.

Q. It was provided that the New York Life Insurance Company would pay direct to the beneficiary, as provided in the agreement, of any agency director who dies during the year 1902 while an agency director in the service of the company and a member of the order of Nylics for agency directors as part compensation for services rendered as follows: First, if the average paid business of the branch office under the agency has been less than \$750,000 per annum, since and including January 1, 1902, \$2,000.

Second, if the average paid business of the branch office under the supervision of the deceased agency director has been from \$750,000 to \$1,000,000 per annum, \$3,000.

Second, if the average paid business of the branch office under the supervision of the deceased agency director has been from \$1,000,000 to \$1,500,000 per annum, \$4,000, and so on, if the business was \$1,500,000 to \$2,000,000, \$5,000; if the business was \$2,000,000 to \$2,500,000, \$6,000; if the business was \$2,500,000 to \$3,000,000, \$7,000; if the business was from \$3,000,000 to \$3,500,000, \$8,000; if the business was from \$3,500,000 to \$4,000,000, \$9,000, and if the average paid up business had been over \$4,000,000, \$10,000? A. That is right.

Q. Further provided that the beneficiary to receive these payments shall be such person as the agency director shall have designated in writing upon the blanks prepared for that purpose by the company, and in no other way, provided such designation is received by the company, otherwise the amounts payable shall be paid to the estate of such agency director. The agency di-

*Testimony of Thomas A. Buckner*

rector can change the beneficiary, or beneficiaries, by notifying the company in writing.

Further, provided, if the agency director shall die during the year 1902, and after having ceased to be an agency director, or after leaving the service of the New York Life Insurance Company, neither his estate nor his beneficiaries shall have any claim whatever on the benefits described herein. There was also a provision for participation of inspectors of agencies, supervisors, and non-salaried agency directors. Was there not? A. Yes, sir.

Q. These inspectors of agencies and supervisors and non-salaried agency directors were allowed to participate by putting in a part of the compensation they received into the fund and in case of the death of any inspector of agencies or supervisor while in the company's service during 1902, whether such inspector of agencies or supervisor had become a participant in Nylic for agency directors as provided, or not, the estate of such inspector of agency shall receive additional compensation from the company as follows:

The estate or beneficiaries of an inspector of agencies, \$10,000.

The estate or beneficiaries of a supervisor, \$7,500.

Q. I don't understand what the meaning of that provision is. Whether such inspector of agencies or supervisor shall have been a participant in Nylic or not? A. Well, he may elect under that first proposition not to deposit any of his salary.

Q. Is his estate to have that benefit in any event? A. Then he gets in that event as part compensation to him the just benefit.

Q. Then apparently he can get the same emolument or his estate can, without putting up anything? A. Yes, sir. That was so in the beginning; it is not now. The mortuary benefit is independent of the trust fund and does not come out of the trust fund.

Q. Then the mortuary benefit for agency directors is paid directly by the company? A. By the company.

*Testimony of Thomas A. Buckner*

Q. It doesn't come out of the trust fund? A. It is part of the agreement with him from the company.

Q. To every agency director, supervisor or inspector of agencies the death benefit is payable without reference to whether he is a member of Nylic or not? A. Yes.

Q. And that was the original plan? A. That was the original plan. I think we had no deaths whatever during the year 1902.

Q. Another prospectus was published in 1903? A. 1903, or for the year 1903.

Q. For the year 1903? Was the fund created for the year 1903 in the same manner as for the year 1902? A. Yes, with the exception that we introduced a feature concerning the expense ratio. In other words, we made some bonus offers to agency directors for reducing the expense ratio while securing at the same time the allotted amount of business for the year.

Q. Which is the feature to which you referred? A. Here.

Q. As follows:

"Each agency director shall be advised by the company, in writing, of the expense ratio of his branch office for the year 1902 as shown by the company's ratio book."

A. 1903, is it not, Mr. Hughes? Does it say 1902?

Q. This is published in 1902. That is the basis of it. A. Oh, yes, I beg your pardon.

Q. "The company will make a bonus offer to each agency director for a reduction in the expense ratio of 1903 to the per cent. fixed by the company in writing, conditional, however, upon an increase in the amount of paid business of the branch office in 1903, over 1902. In arriving at the expense ratio for 1903, any bonus earned under this proposition shall be included in the expenses of the business, but no other bonuses earned under Nylic for agency directors shall be included in the expense ratio

*Testimony of Thomas A. Buckner*

of either 1902 or 1903. The deduction in expense ratio required will vary among the different branch offices in accordance with the company's views of what should be accomplished. The amount of bonus to be paid by the company under this proposition will be such sum as is fixed by the company in writing to each agency director."

A. I want to say that that has worked out most beautifully by the company.

Q. In the reduction of expense ratio? A. It has worked a very beautiful reduction of the expenses.

Q. Have you a table giving that reduction? A. I think I can give you an exhibit of some kind showing what that has accomplished.

Q. I would be very glad to have it. Was there any other change in this year? A. No, I think not. Possibly some changes in the members' agreement eliminating any reference, I think, to the year 1901, which was an——

Q. There were no material changes? A. No, sir.

MR. HUGHES: The prospectus for 1903 I will mark for identification.

(Marked Exhibit No. 147.)

Q. Then I understand that this fund, made up by the contributions from the salaries, bonuses and prizes of the agency directors for 1902, and contributed to by your company in the manner described, was constituted under this scheme of 1903, to be held until January 1, 1902? A. Yes, sir.

Q. The same conditions as the other? A. The same conditions.

Q. Then in 1904, another prospectus was issued? A. Yes, sir.



*Testimony of Thomas A. Buckner*

MR. HUGHES: We will have that marked for identification.

(Marked Exhibit 148, for identification.)

Q. Were there any changes in 1904? A. There were no material changes.

Q. What do you regard as material? A. I think there were some changes in the wording, perhaps.

Q. Now, that really affected the real working of the scheme? A. The nature of the scheme.

Q. The mortuary benefits in case of death remained the same? A. Yes, sir. Perhaps there may have been some changes in the amount of the benefits.

Q. Well, I will read from the prospectus of 1903 the following:

"In the case of the death of any inspector of agencies, while in the company's service, during the year 1903, whether such inspector of agencies had become a participant in Nylic for agency directors, as above provided or not, the estate of such inspector of agencies shall receive additional compensation from the company as follows:

"The estate or beneficiaries of an inspector of agencies, \$10,000.

"Agency directors employed by the company otherwise than under salary, may also participate in the benefits of Nylic for agency directors in the same manner that agency directors on salary participate, except that the amount of money which they may pay to the trustees (representing an approximate equivalent of the amount that the agency directors under salary pay) shall be fixed by the company."

*Testimony of Thomas A. Buckner*

I also note in this prospectus for 1903 the following :

"It is the purpose of the company to create a similar fund during the year 1904, and subsequently up to and including the year 1911, and the trustees of the company will be requested by the agency department at the beginning of each calendar year to pass a resolution renewing for the next year the provision for 'part compensation' for services as rendered"

as herein set forth.

That part, "part compensation for services rendered," is the heading for the provision of death benefits? A. Yes, sir.

Q. And those, as I understand in this case as in the other, did not come out of the Nylic funds. A. Not come out of the Nylic funds ; no connection with it.

Q. The prospectus for 1903 further says :

"The company reserves the right to vary the provisions of Nylic for agency directors, to substitute new features, and to eliminate provisions made for the year 1903, as it may see fit from year to year. Any funds, however, that have once been earned in accordance with the programme outlined herein and paid over to the trustees from any source shall become absolutely the property of the beneficiaries and shall be distributed according to the terms of the agreement regarding the same."

Now, in the prospectus for 1904, Exhibit 148 for identification, instead of providing that the agency director and the estate or beneficiaries receive \$10,000 there was a scale. A. There is always a scale for agency directors. That other was inspectors of agencies you just read.

MR. HUGHES: Strike out that last question.

*Testimony of Thomas A. Buckner*

Q. Instead of providing, as heretofore, for a payment of \$10,000 to the estate or beneficiaries of an agency inspector, it was provided as follows :

“In case of the death of any such persons while in the company’s service during the year 1904, the estate of such deceased shall receive additional compensation from the company as the company shall have previously fixed in writing in each specific case.”

Well, does the company specifically fix in writing in the case of each agency inspector? A. Inspector of agencies.

Q. What shall be received? A. Yes, sir.

Q. In case of death? A. Yes, sir.

Q. What amount is it? A. It is \$10,000. I think the reason for the change in the wording was because we introduced there some other foreign representatives, did we not? I don’t know now why we didn’t put it in the pamphlet.

Q. There was no change in fact? A. There was no change in fact, no.

Q. The \$10,000 provision remained the same to be paid in case of death to the estate or beneficiaries of the inspector of agencies, whether a participant in Nylic or not? A. Yes, and \$7,500 to supervisors.

Q. Well, I didn’t find that in the scheme for 1903. A. Then that must be the reason for the change.

Q. No, that is dropped out of 1903, when they left the rest as it is. A. This is 1904 you are reading.

Q. Yes, the \$7,500 was dropped out in 1903 before the change of the wording. A. Yes.

Q. Then I don’t know what the motive was there. A. We had some reason for it.

Q. The only difference with regard to the \$10,000 payment is

*Testimony of Thomas A. Buckner*

that prior to 1904 it was stated in the prospectus to be paid in 1904; it was provided that the estate should receive such additional compensation as the company fixes the same. A. I think that is so in each case.

Q. In each case. Then there is another prospectus for 1905, is there not? A. Yes, sir.

MR. HUGHES: I will have that marked for identification.

(Marked Exhibit 149 for identification.)

Q. Are there any changes? A. Yes, sir. The bonus of twenty-five cents for every dollar that the agency director deposited from his salary is eliminated for the year 1905. There is no bonus offer made based on the salary deposit. Then there is—

Q. The other bonuses to be paid over by the company remained the same? A. I think there is one new one. I think there was a bonus offer made, but not included in the Franklin, of \$1 per thousand on the excess business of each agency director over and above his allotted volume of business for the year 1905, but I think that was put out subsequent to the publication.

Q. The provision for death benefits in the case of agency directors remained the same? A. Yes, sir.

Q. And the provisions for death benefits in the case of inspectors of agencies and supervisors is the same as it was in 1904? A. Yes, sir.

Q. To which you have already referred? A. Yes, sir.

Q. How many beneficiaries were there originally in the fund for 1902? A. I don't believe—there were 195.

Q. How many of those still retain their participation? A. 114.

*Testimony of Thomas A. Buckner*

I am speaking now from a card furnished me, subject to correction.

Q. Subject to correction. Then 81 have dropped out, withdrawing under the terms of the agreement? A. Yes, sir.

Q. What they contributed, with 6 per cent., and losing the benefits otherwise provided for? A. Losing all of the benefits.

Q. Now, when they dropped out and withdrew the amounts they contributed from their salary and bonuses, did they company withdraw the 25 per cent. of such amounts which the company had contributed? A. No, sir.

Q. It is left in the fund for the benefit of the 115 who persist? A. Yes, less the 6 per cent. interest paid to those that withdrew.

Q. Of course the 6 per cent. interest would be a charge on whatever money was made on the investment of the funds in Nylics? A. Yes. If there wasn't that much made it would come out of the other funds.

Q. Out of the principal generally? A. Yes, sir.

Q. But the company, when it once puts up the money under the terms of the agreement, does not withdraw any part of it by reason of the withdrawal of any lapsing member of his share? A. No, because the conditions are that it shall be left to the entire body.

Q. How many members or participants were there originally in the fund for 1903? A. 208.

Q. How many are still participants? A. Well, the 114 which I gave you a while ago were participants on December 31, 1904.

Q. Of the 1902 creation? A. Yes, sir.

Q. Now, we are speaking of 1903. A. Of the 1903 creation there was, on December 31, 1904, 141 continuing.

Q. Now, how many originally participated in the 1904 creation? A. 225.

Q. And how many on December 31, 1904, remained? A. 191.

*Testimony of Thomas A. Buckner*

Q. How many participated in the fund for 1905? A. Well, that we don't know. We don't make that fund up until the close of the year.

Q. How are the accounts of these funds handled? Do the trustees have a separate set of books? A. So far as the New York Life Insurance Company is concerned, the moneys are paid over when the accounts are made up at the close of the year to the trustees by check. What they do with it and how they treat it afterwards we do not know.

Q. Do you know who keeps the books, who has charge of it, as a practical matter? A. For the trustees?

Q. Yes. A. I do not. I have no knowledge of how they treat it or how they invest it or handle it among themselves.

Q. Do the trustees make the accountings that are required from time to time? A. Once a year.

Q. In what form are they made? A. Orally to the directors at the agency convention, which we hold in January of each year.

Q. Is any record kept of those? A. No, sir.

Q. Do the trustees make an accounting from time to time of the funds held for the first system of Nylic—I shall withdraw that, for there is no trust there at all. A. I think the trustees make an individual—not accounting—but they give an individual record to each man.

Q. You are speaking now for the trustees for the fund of agency directors? A. Of Nylic for agency directors.

Q. And in the other case, for the first system of Nylic, there are no directors, the payments are made directly by the company? A. Yes.

Q. How do you book the amounts that you turn over to the trustees for the benefit of agency directors? A. They charged it all as payments—as payments to agency directors, and I think they are carried into general bonuses. I am not familiar with the bookkeeping end of it.

*Testimony of Thomas A. Buckner*

Q. What amount of money did the New York Life Insurance Company pay over to the trustees to the creation of the fund of 1902 for agency directors? A. Including the cash deposit of salaries?

Q. Wait a minute. I am asking what amount of money the New York Life paid over as its contribution for that fund independently of what was paid over as part of the salaries of the various agency directors? A. \$259,296.

Q. That was for 1902? A. 1902, but that included the 1901 bonus, that is to say, it included the bonus given by the company at the beginning of 1902 on the 1901 deposit.

Q. Well, I understand that \$259,296 is the total paid into the fund created for 1902 by the company? A. That is correct.

Q. Independently of what was paid by the agency directors themselves? A. That is correct.

Q. What was the total amount paid by the agency directors to that fund? A. I think, Mr. Hughes, that the figures I have given you there include the amounts deposited by the agency director from his 1901 bonuses. I think it includes that, but not the amount deposited on account of salary for 1902.

Q. Can you separate that item of \$259,296? A. I cannot. I have not got that separated, but from salaries the agency directors deposited \$78,958 during the year 1902.

Q. And the total fund for that year from all sources then was——. A. \$330,252.

Q. Give the same totals, please, as to the fund for 1903? A. Salary deposits by agency directors, \$104,920; bonuses deposited by the company, \$180,712.

Q. Does that include all the amounts paid into the company? A. That includes all paid that year.

Q. It happened to be a good deal less than the year before? A. I explained that, that the year before the item included the 1901 bonuses earned by agency directors, and which they were

*Testimony of Thomas A. Buckner*

entitled to under the 1901 arrangement to draw in cash. It was optional as to their putting it in, and therefore in the year 1902 you have two years really combined, you have the optional year of 1901 and the year of 1902 as provided in the prospectus.

Q. What are the data for 1904? A. By the agency directors my card shows \$122,920, by the company as bonuses \$168,952.

Q. Making a total of? A. Making a total of \$291,873.

Q. What amount was withdrawn from the fund from 1902 on the withdrawal of agency directors? A. I have not the withdrawals by years, but the total amounts withdrawn to date amount to \$116,413, and that is withdrawals and corrections; we have sometimes in readjustments of bonuses, we have had to make corrections.

Q. None of these items that the company pays over to the fund go under the head of expenses, you do not think; you don't know definitely? A. Oh, yes; all items go under the head of expenses.

Q. Yes, in the general head, but it is segregated into an item of bonuses. You think so—I do not want to—. A. I will tell you in a moment; yes, sir; bonuses of Nylc for agency directors. We have it segregated.

Q. Have you a sheet there showing in detail income and disbursements? A. Yes.

Q. I would be glad to have that? A. I had to answer some of your questions yesterday from it. I have it for 1903 and 1904. There are some figures on it which—

Q. Have you a clean sheet? A. Well, those do not matter. I made them for my own notation.

MR. HUGHES: This statement of income and disbursements for 1904 I should like to have marked for identification.

(The paper was marked Exhibit 150, for identification.)



*Testimony of Thomas A. Buckner*

Q. I find under head of disbursements for 1904 an item of bonuses, \$432,601.93. What does that refer to? A. That refers to all bonuses to agents and agency directors as per contract.

Q. Does that include payments made to Nylic? A. No, I think not. I think they are segregated there, separate items. This is 1904 you speak of?

Q. Yes. Then we have the next item of bonuses, general \$194,113.32. What are they? A. Those are general bonuses offered to the entire field of agents throughout the world, through what we call the bulletin, such as bonuses, contests for single months and so forth; bonuses other than those provided for in the written agreement with the agents.

Q. Then these first bonuses are bonuses provided for in the written agreement? A. In the written agreement, yes.

Q. Have you produced to-day a form of the present agreement? A. With agents?

Q. Yes. A. Yes, I have not handed it in. We have two forms, one form for whole-time men and one for part-time.

Q. The form you now show me is for whole-time men? A. Yes.

MR. HUGHES: I offer that in evidence.

(Marked Exhibit No. 151, for identification.)

Q. And the second one is for part-time men? A. Yes.

MR. HUGHES: Mark that for identification.

(Paper marked Exhibit No. 152, for identification.)

THE WITNESS: You have not finished with the Nylic agency directors. I can give you, Mr. Hughes, the cash deposits on account of salary for thus far in the year 1905.

*Testimony of Thomas A. Buckner*

Q. You mean now in the Nylic for agency directors? A. Nylic for agency directors.

Q. Yes, you may give it. A. They amount to \$146,432, after counting out the withdrawals and corrections which have been made down to July 1, 1905. The total fund in the hands of the trustees, or turned over to the trustees by the company, amounts to \$937,777.83.

Q. How many individuals are there that are beneficiaries in that fund? A. At the present time the maximum number—well, I don't know at the present time, but on December 31st, 1911 men.

Q. Have any agency directors died since the 1st of December, 1904? A. Yes, sir; I think there have been two or three deaths.

Q. Have payments been made to them? A. Payments have been made to them in accordance with the programme.

Q. How much? A. Well, that I don't know. I think it probably amounts to about \$15,000, I should say.

Q. Has that been charged against the Nylic funds? A. Yes, sir, in our accounts, but not in the trustees account. It does not come out of that.

Q. I am speaking now of agency directors? A. Yes, sir.

Q. Have any inspectors of agents died? A. No, sir; none.

Q. So that the Nylic fund is preserved intact for the survivors? A. Yes.

Q. The persistent members until the date fixed for distribution? A. Yes, sir.

Q. While those who die are paid according to the agreement by the company? A. Yes. The purpose of the Nylic for agency directors, just as in the case of the Nylic for agents, is to bind to the company a body of men who have been trained and who are experienced and who have proven themselves successful for the company. I want to go on record as saying that in my opinion these two Nylics have done more than any other one

*Testimony of Thomas A. Buckner*

feature connected with the New York Life Insurance Company towards building up the business and building up a body of successful life insurance men, which we believe to be the best in the world, and which during the last year paid for \$100,000,000 more than was paid for by any other body of life insurance men on earth.

Q. The next item I find in your statement of disbursements after these two items of bonuses and general bonuses, which you have explained—I refer to the year 1904—is commissions on first-year premiums, \$6,662,448.64. Those are what it imports.

A. Yes, sir.

Q. Commission on first-year premiums? A. Yes. You figured it yesterday over 50 per cent., but I called your attention to the fact it was about 50 per cent., but I find it is considerably less than 50 per cent. of the premium.

Q. That amount is? A. Yes.

Q. But not if you take the bonuses? A. If you take them it is slightly over 50 per cent.

Q. In addition to those I find another item, commissions on single premiums, \$3,429.50. That is single-premium business of the year before? A. During the year, commissions paid out during the year on single-premium business.

Q. That makes a total of bonuses and commissions on first-year premiums and single-year premiums of \$7,292,593.39? A. Yes.

Q. That is entirely independent of any payments which may be made for Nylic on account of the business written last year? A. I so understand it.

Q. And the total first-year premiums received last year were \$14,048,536.60? A. Yes.

Q. Now we go on with the statement of disbursements, and we find Nylic, \$389,228.64. That is charged as renewal of commissions? A. Yes.

Q. That is to original Nylic? A. Yes, in lieu of renewals.

*Testimony of Thomas A. Buckner*

Q. We find below bonuses of Nylic for agency directors, \$183,877.35? A. Yes.

Q. That is the payment——. A. The payment made during that year——.

Q. To the trustees? A. To the trustees in accordance with the agreement with the agency directors.

Q. We find salaries of M. I. & A., \$1,631,052.32. What are those? A. Salaries of managers, inspectors of agencies and agency directors and all other salaried men connected with the department.

Q. I also find an item of conventions, \$1,161,563.36. Is that the same item to which you referred yesterday? A. That is the item of conventions of the clubs and agency directors, at the beginning of the year and any other convention of agents which the company feels necessary to hold for instruction or encouragement in their work.

Q. We find the item of salaries, \$900,475.90. What salaries are included in that item? A. I think all the home office officials and clerical force outside of those that pertain to the agency force which the company has always charged up to the agency department, agency expenses.

Q. I find law expenses \$172,698.42. You are not familiar with that department? A. I am not.

Q. Who would be familiar with the items entering into it? A. I presume the Comptroller.

Q. And I find an additional item of expenses here, Home Office, \$83,356.54. What is that? A. I don't know.

Q. And here is an item of expenses at the end, simply expenses, \$243,089.51. What is that? A. I think that is miscellaneous expenses; isn't it segregated?

Q. No. A. I think it is postage and telegraphing, express, miscellaneous expenses, but I am not certain about that.

Q. Under what head do you put your branch office expenses?

*Testimony of Thomas A. Buckner*

I find here, for example, B. O. clerk hire, \$1,029,794.79. Does that mean clerk hire for your branch offices? A. For our branch offices throughout the world, including the cashiers.

Q. Wherever we see B. O. here it means branch offices?  
A. Yes.

Q. And you are having made up for me, I understand, a paper which will show what items are the items of disbursements properly attributable in your judgment to the business written last year. Have you that here? A. I think it is made up now, but I would like to have you take Mr. Weeks on that, if you do not mind. He is more familiar with it than I am.

Q. All I want is the document for the moment. We will have occasion to ask Mr. Weeks a number of questions later. A. Yes, sir.

Witness produces papers.

MR. HUGHES: A statement is produced, which I will offer in evidence and read upon the record.

(The paper was marked Exhibit 153 and read by Mr. Hughes.)

EXHIBIT No. 153.

"Analyzed statement of premiums and expenses of the New York Life Insurance Company for the year 1904.

First year's premiums received..... \$13,988,186.75

I.

Acquisition expenses being applicable to first  
year's premiums as such:

First, direct acquisition expenses—

|                                             |                |
|---------------------------------------------|----------------|
| Commissions, first year's and advances..... | 7,267,893.54   |
| Bonuses .....                               | 810,592.60     |
| Physicians' fees .....                      | 841,001.20     |
| Investigation of risks .....                | 178,155.01     |
|                                             | <hr/>          |
|                                             | \$9,097,642.35 |

*Testimony of Thomas A. Buckner*

II.

Estimate indirect acquisition expenses—

|                                                                               |            |
|-------------------------------------------------------------------------------|------------|
| Advertising .....                                                             | 144,403.47 |
| Telegrams and telephone.....                                                  | 57,504.61  |
| Agents' conventions and clubs.....                                            | 194,432.48 |
| 25 per cent. of H. O. Salaries.....                                           | 225,118.98 |
| 60 per cent. of H. O. Agency expenses.....                                    | 110,161.24 |
| 70 per cent. of salaries of managers, inspectors<br>and agency directors..... | 141,736.62 |
| 70 per cent. of traveling expenses.....                                       | 372,728.29 |
| 40 per cent. of B. O. Clerk Hire.....                                         | 411,917.92 |
| 40 per cent. of B. O. fixtures.....                                           | 67,969.49  |
| 25 per cent. of rent, Company's offices.....                                  | 181,275.19 |

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\$2,907,288.29

9,097,642.35

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\$12,005,090.64

Renewal premiums ..... \$64,568,709.73

Renewal expenses—

|                                                              |                |
|--------------------------------------------------------------|----------------|
| Commissions and collection fees on renewal<br>premiums ..... | \$1,671,349.19 |
| Renewal commissions commuted.....                            | 121,837.60     |
| Nylic .....                                                  | 389,228.64     |

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\$2,182,415.43

Entire premiums ..... \$78,556,896.48

Expenses estimated as applicable to entire  
premiums:—"

Q. I understand by that that those are expenses which have not  
been applied solely to first year or solely to renewals? A. Yes.

*Testimony of Thomas A. Buckner*

Q. That are applicable to the entire premiums as such? A. I so understand it.

Q. And are not separate? A. No.

MR. HUGHES (reading):

|                                                                             |                |
|-----------------------------------------------------------------------------|----------------|
| 75 per cent. of H. O. Salaries.....                                         | \$675,356.92   |
| 40 per cent. of H. O. Agency expenses.....                                  | 73,440.82      |
| 30 per cent. salaries of Managers, Inspectors and<br>Agency Directors ..... | 489,315.70     |
| 30 per cent. taveling expenses.....                                         | 159,740.69     |
| 60 per cent. B. O. Clerk Hire.....                                          | 617,876.87     |
| 60 per cent. B. O. fixtures.....                                            | 101,954.23     |
| 25 per cent. rent, Company's offices.....                                   | 543,825.57     |
| Printing .....                                                              | 210,827.90     |
| Stationery .....                                                            | 209,570.93     |
| Postage .....                                                               | 286,482.38     |
| Expenses .....                                                              | 243,089.51     |
| Expenses for equipment.....                                                 | 31,433.35      |
| Expenses of Home Office.....                                                | 83,356.54      |
| Branch Office exchange.....                                                 | 6,847.91       |
| Branch Office express.....                                                  | 34,728.74      |
| Branch Office sundries.....                                                 | 49,006.19      |
| Law expenses .....                                                          | 172,698.42     |
| Taxes other than on real estate.....                                        | 906,189.15     |
|                                                                             | <hr/>          |
|                                                                             | \$4,895,741.82 |

Q. You have also prepared a similar statement for the year 1903? A. Yes, sir.

MR. HUGHES: I offer that in evidence.

.(Admitted and marked Exhibit 154 and read by Mr. Hughes.)

*Testimony of Thomas A. Buckner*

MR. HUGHES: I also wish to note upon the record the compensation paid to agents under the form of agreement Exhibit 151 for identification, for old-time agents.

Q. Now the second form which you have produced for part-time agents gives the same as the first form so far as the commissions are concerned on original cash premiums for first year insurance? A. Yes.

Q. And it provides for no renewal commissions whatever? A. None whatever.

Q. It provides for bonuses as the same may be agreed upon in particular cases? A. Yes, but never more than——

Q. Never more than appear in the whole-time agency contracts? A. Yes, for sizes of policies. Those bonuses are for sizes of policies.

Q. Yes. Under paragraph B, which I read in the first contract? A. Yes.

THE WITNESS: I would like to say in regard to those contracts, in explanation of the former statement that I made the other day, that we introduced this contract on or about January 1st, 1900. Prior to that time we had made various kinds of contracts according to the section of the country and the importance that we attached to getting the man. That is to say, we had no uniformity of action. We negotiated and dealt with the individual. So we introduced this contract on or about January 1, 1900, and for the next year or two we made it almost exclusively, but did make some contracts, a few, on the old form. At the present time we make none except the present contracts in the domestic field.

Q. What contracts do you make in other fields than the domestic? A. In Europe we have only within the last year—that is to say the last year and a half, introduced this form of contract, and we are rapidly introducing it throughout the various



*Testimony of Thomas A. Buckner*

countries of Europe so far as we can do so. Of course in harmony with the general plan of other companies in those territories.

Q. What regulations are there with regard to the payment of commissions in Germany? A. In Germany we are allowed to pay not to exceed I think it is 50 per cent. commission the first year to any agent and the average commission to the agents in Germany must not exceed 40 per cent. on the first year's premium

Q. And that includes bonuses and payments of every description? A. No, sir; that is commissions. We would be permitted to pay salaries in addition to that if we saw fit. That includes what would be called a commission on the premium.

Q. On the premium? A. Yes.

Q. How do you pay bonuses for additional premiums? A. We do not. We have two or three contracts in Germany, I think, on salaried managers, but it is not the rule.

Q. You mean to say you could have a straight salary arrangement without conflicting with that rule? A. That is my understanding.

Q. But if an agent is on commission, you could not give him an additional compensation? A. Not the first year.

Q. Not against the first year's premium? A. Not against the first year's premium.

Q. This is a regulation by law, is it not? A. No, sir; it is the regulation of the Bureau of Insurance, I think, in order to protect the German companies against American competition. They have a different system from that of the New York Life. They compensate their agents by long time renewals. They know we do not, and therefore by limiting our first year's commission, they of course preserve a distinct advantage in the field of securing solicitors for the German companies. I know of no other reason or motive that could have made them make this requirement.

*Testimony of Thomas A. Buckner*

Q. Then I understand no bonuses or additional payments are given to agents in Germany? A. I think not by contract.

Q. Are the contracts there submitted to governmental inspection? A. No, sir, not specifically, but only this general rule.

Q. How is that rule enforced, as a practical matter? A. I think they rely upon the statement of the general manager of the Company for Germany and also can check it up by the returns at the end of the year made to the German government for the German business.

Q. Who is in charge of your German business? A. Mr. W. E. Ingersoll.

Q. He is over there? A. He is in Paris and has been for more than thirty years, and is second vice-president and in charge of our European business.

Q. Who in the home office is in charge of your German business? A. From the agency standpoint I am.

Q. So I can ask you about these matters? A. Yes, sir.

Q. Take other countries besides Germany, what compensation do you pay to agents? A. There are no restrictions in any other country besides Germany, and we, as stated, are rapidly bringing all countries into harmony with the domestic plan of contract, but we have not done so as a whole yet. In France we have practically the domestic contracts. In England we are gradually putting it into effect and changing from the old system, the old system in England was largely a salaried system. In Russia since 1905 we have introduced this contract and it is the only contract they are permitted to make in Russia. We have the same general programme throughout Europe, as we have here, viz., the branch office system, with an agency director or manager on a salary and a cashier on a salary. There are only two exceptions to that programme that I have in my mind now in all Europe, and those are the old-time general agency contracts,

*Testimony of Thomas A. Buckner*

which we have not disturbed but which we expect to as soon as we can get around to it.

Q. How is it in Australia? A. In Australia we have very largely the American programme, that is to say, salaries and commissions, and they make some contracts and some guarantees.

Q. Under whose charge is the Australian business? A. At the home office under my general supervision. All agency affairs are under my supervision and associated with me in that is Mr. E. R. Perkins, second vice-president.

Q. In these statements you have furnished of the premiums and expenses for the years 1904 and 1903, Exhibits 153 and 154 you have stated all the premiums from different sources derived without references to the field? A. Yes, sir, and all the expenses.

Q. Now, you have, I suppose—— A. All the expenses with the exception of real estate, taxes and repairs on real estate.

Q. You have, I suppose, statements which segregate the business of different countries, the premiums received and the expenses incurred in those countries respectively? A. We have it segregated as between what we call domestic and European.

Q. Well, have not you it segregated with regard to different countries in Europe? A. I think we have some figures that will answer your purpose on that.

Q. But you have readily at hand the statements of the results of the business for Europe? A. Just exactly in the same way as you have it here.

Q. Can you bring those in after lunch? A. I don't think they could be prepared as soon as that.

Q. I thought you might have them. I have not asked for them before. A. No, sir.

Q. I do not mean to imply they should be ready, if you do not

*Testimony of Thomas A. Buckner*

happen to have them? A. No, sir, they are not drawn off the books.

Q. I should like to know just what proportion of the first year's premiums received were derived from the business in the United States? A. Yes, sir.

Q. And apart from other countries? A. Would you be satisfied to say the domestic business? That is to say the business—we have it divided into two categories, the Paris direction, which covers Europe and South Africa, goes through the European direction, and the rest we treat as domestic business, that is to say it comes through the home office here.

Q. Where does Australia come in? A. That comes from the home office.

Q. I should like to have that separated? A. I should be very glad to.

Q. And Mexico for example? A. Yes.

Q. And South America? A. Yes, sir, I can give you the figures.

Q. Those can be properly separated, I should think. A. Perhaps not on this basis, but I think perhaps I can give you figures that will satisfy you.

Q. And the United States and Canada? A. I am only too pleased to do this, Mr. Hughes, because the general impression that our foreign business is excessively expensive is entirely inaccurate.

Q. Well, we want to get at the facts of that. We want to know whether you are extending your business in foreign countries at the expense of the policy holders of the United States. We want to get at the actual facts about that. A. Yes.

Q. And to do that I suggest that you segregate the business so the United States and Canada will appear by themselves in one category, Mexico and South America in another, and then you can take the countries of Europe and Australia—— Do you do

*Testimony of Thomas A. Buckner*

business in Africa? A. South Africa and also North Africa. North Africa, all the African business goes through Europe.

Q. And in Asia? A. Yes, we do a business in the Orient, and in India.

Q. I should suppose that would be a category by itself? A. Yes, it is a very small part of the business. I don't think we can give it to you segregated in this way, because that would be a very long task.

Q. Well, you can do this, you can give me the first year's premium? A. Yes.

Q. And you can give me what you call here the direct acquisition expenses of commissions, bonuses and physicians' fees? A. I can give you the whole extent anyhow you say.

Q. And you can also give indirect acquisition expenses? A. I don't think there are any indirect acquisition expenses there.

Q. Do not the home office salaries at all apply to what you do in Australia? A. It applies to what we do as a whole on all the business.

Q. Yes, but you do not think you could apportion that satisfactorily between those parts of the business? A. It would be a very extensive statement but I will bring you all we can, and then if you want more you can have it.

Q. That is a very kind offer.

THE CHAIRMAN: Mr. Hughes, this may be a convenient place to suspend.

MR. HUGHES: Yes, May I ask one more question. Then I can excuse the witness.

Q. Who figured these percentages that are in these statements of 1903 and 1904 in dividing the various expenses between the first year's premiums, the renewal premiums in taking a series

*Testimony of Thomas A. Buckner*

applicable to the entire premium? A. I think that was done on consultation with Mr. Perkins, who was formerly in the agency department some years ago, and in consultation with Mr. Weeks.

Q. Formerly actuary and now vice-president? A. Now second vice-president, then actuary.

Q. This may be regarded then as the official statement of the Company of their views of the propriety of the division of expenses? A. It is drawn off from the book which we keep regularly every month and every year for our own internal examination and information.

THE CHAIRMAN: The Committee will take a recess until 2:15 P. M.

AFTER RECESS.

2.15 P. M.

MR. HUGHES: A letter has been received by the Committee from the Honorable Grover Cleveland, Chairman of the Trustees, under deed of trust of certain shares of stock of the Equitable Life Assurance Society, explanatory of the plans of the trustees which I will offer in evidence.

(Marked Exhibit 155 and read by Mr. Hughes.)

MR. HUGHES: To the letter is appended Exhibit A, the trust agreement between Thomas F. Ryan and Grover Cleveland and Morgan J. O'Brien and George Westinghouse, trustees. This has already been introduced in evidence.

Also Exhibit B, copy of first address made to policyholders by the trustees, dated June 16, 1905, which I will also introduce in evidence.

(Marked Exhibit 156.)

MR. HUGHES: There is also Exhibit C, copy of a second address made to policyholders by the trustees, which I will also introduce in evidence.

(Marked Exhibit 157.)

*Testimony of Henry Rogers Winthrop*

MR. HUGHES: Mr. Winthrop, will you take the stand.

HENRY ROGERS WINTHROP, called as a witness, being duly sworn, testified as follows:

BY MR. HUGHES:

Q. Mr. Winthrop, you reside in the city of New York? A. Yes, sir.

Q. What is your occupation? A. Assistant secretary of the Equitable Life Assurance Society.

Q. How long have you been assistant secretary? A. Since February, 1903.

Q. Were you previously connected with the Society? A. I was employed as a clerk from January, 1902.

Q. I have asked the Equitable Life Assurance Society to present a statement of the syndicate participations of that society, with details as to managers, allotments, terms, amounts of calls and results. Have you produced such a paper? A. That has been prepared, yes, sir, from our records.

Q. Is this paper which you produce a complete statement from your records of such syndicate participations? A. We believe it to be so.

MR. HUGHES: I will have it marked for identification.

(Marked Exhibit 157 for identification.)

Q. I also asked the Society to furnish the Committee with a record of purchases and sales of securities for the last ten years. Have you prepared such record? A. Those are the records for the past five years; the previous five years are being prepared.

Q. And these records for the past five years are complete from your books? A. I believe so, yes.



*Testimony of Henry Rogers Winthrop*

MR. HUGHES: The records of purchases may be marked for identification, from January 1st, 1900, to September 1st, 1905.

(Marked Exhibits 158, 158A, 158B, 158C, 158D and 158E.)

MR. HUGHES: Also mark for identification record of sales of securities from January 1st, 1900, to September 1st, 1905.

(Marked Exhibits 159, 159A, 159B, 159C, 159D and 159E.)

Q. The first syndicate mentioned upon this list, Exhibit 157 for identification, is the syndicate account of the Union Pacific Railway Bonds, managers, Kuhn, Loeb & Co., allotment \$750,000. I see no date mentioned there. Can you tell me approximately the date of that? A. The first date where this appears on our books is November 11th, 1895, when 1 per cent. was called for expenses.

Q. I see under the head of allotments the words Mercantile Trust Company. What do they mean? A. That our participation was a part of the Mercantile Trust Company's participation.

Q. Do you know what the extent of the Mercantile Trust Company's participation was? A. No, sir.

Q. Do you know what other persons participated in the participation of the Mercantile Trust Co.? A. No, sir.

Q. I find a blank under the head of terms. Do you know what the terms were? A. We have not a copy of the syndicate agreement.

Q. Under that syndicate there was called, I take it, the full amount of the allotment, \$750,000 which was paid in three payments of ten per cent. on December 26th, 1895, 10 per cent. on January 6th, 1896, and 80 per cent. on November 18th, 1897? A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. Then I understand those bonds were sold. Or, what was done to effect the realization? A. Evidently the syndicate managers sold the bonds because it appears here that the 1 per cent. for expenses was returned and then 50 per cent. of the subscription was returned and then the remaining 50 per cent. was returned on various dates.

Q. So the bonds were sold by the syndicate managers and the amounts that had been called were returned to the Society. I find no entry of profits on the transaction. Were any such profits realized? A. Not that I know of.

Q. Do the books of the Society show that the Society received any profits whatever? A. I believe not.

Q. Do you know whether in fact there were profits made on those syndicate transactions? A. I don't know, sir.

Q. The next syndicate is St. Paul and San Francisco Underwriting syndicate, managers J. Kennedy Todd & Co., J. & W. Seligman & Co. and Asberg, Goldberg & Company and the first date I find is April 30th, 1896. That is the first date on your books? A. Yes, I have a copy of it here.

Q. The allotment to the Equitable Society is stated to be \$100,000 and to have been from the Mercantile Trust Company. Does that mean that that is a part of the Mercantile Trust Company's participation in that syndicate? A. I presume so.

Q. Do you know who the other participators in the share of the Mercantile Trust Company were? A. No, sir.

Q. I find that there was a call for \$100,000 in April, 1896, and the amount was subsequently returned. There is no statement here of profits derived on that syndicate. Is there any entry on the books of the Society of any profits having been received? A. I believe not.

Q. Do you know whether any profit was actually made on the operations of the syndicate? A. I don't know, sir.

Q. Next is Northern Pacific. Syndicate managers J. P.

*Testimony of Henry Rogers Winthrop*

Morgan & Co., Deutscher Bank, the first date mentioned is August, 1896, and the amount of the allotment is not stated. Do you know what the amount is? A. I do not, sir.

Q. Is there any record on the books of what the amount is? A. No, sir.

Q. The only record on the books of the Equitable Life Company is to the effect that payments were made on such a syndicate participation and moneys received? A. Yes, sir.

Q. I find that \$114,589.58 were paid upon that participation, and then under the head of the results I find a number of receipts, the first one being February 2d, 1897, commissions \$33,333.33. What does that mean? A. I don't know, sir.

Q. It means that amount was received by the Society? A. That is it probably, yes.

Q. Does it mean its share of profits on the syndicate operations? A. It may have been; I don't really know. These are the entries as taken from our books.

Q. That appears to have been allotted as a share of the Mercantile Trust Company's participation? A. Yes, sir.

Q. You don't know who else participated? A. No, sir.

Q. It is not stated here? A. No, sir.

Q. Or the terms of the syndicate? A. No, sir.

Q. The next syndicate is St. Louis & Iron Mountain Railway Second mortgage 5s, managers Vermilye & Co. The first date is May, 1897, the amount of the allotment is not stated. Is there nothing on the books to show the amount? A. No, sir.

Q. That is also a share apparently of the Mercantile Trust Company's allotment, is that right? A. Yes, sir.

Q. Do you know who else participated in the allotment of the Mercantile Trust Co.? A. No, sir.

Q. I find the payments made amounting in the aggregate to \$555,000 and a transfer of March 31st, 1898, to bond account of a similar amount. Then I take it that bonds were withdrawn

*Testimony of Henry Rogers Winthrop*

for investment? A. I don't know whether they were or not, sir; whether they were the result of the syndicate or withdrawn.

Q. The next syndicate is under date of April 21st, 1897, New York Central & Hudson River Refunding syndicate, managers, J. P. Morgan & Co., syndicate formed to refund the New York Central & Hudson River and the New York & Harlem, allotment, \$2,000,000. That was direct from the syndicate managers? A. Yes, sir.

Q. Is that syndicate closed? A. It is still open.

Q. On the participation of \$2,000,000 in that syndicate the Equitable has paid \$460,000? A. Yes, sir.

Q. And it has received so far \$280,000 apparently refunds on account of the amounts called? A. Yes.

Q. No profits have yet been received? A. No, sir.

Q. Did any individuals that you know of participate in that syndicate allotment to the Equitable Society? A. Not that I know of.

Q. Or that you have any record of in your books or papers? A. No, sir.

Q. The next syndicate is Chicago, Rock Island and Pacific 4's, syndicate's managers, Speyer & Co. The amount of the allotment is not stated and nothing to show that on your books? A. No.

Q. The amount called appears to be \$750,000, with a small amount for expenses, \$373, and then there is a transfer to bond account of \$750,000. Does that mean they were withdrawn for investment? A. I don't know whether they were withdrawn or whether it was the result of the syndicate.

Q. There is no entry of any profits in your books on that transaction? A. No.

Q. The next syndicate is New York City 3½'s stock syndicates from City Chamberlain. Explain that, please. A. The first entry appearing on the books is August 16th, 1898, where the

*Testimony of Henry Rogers Winthrop*

society paid out \$1,049,400, evidently for a participation of \$1,000,000 in New York City 3½ bonds.

Q. To whom was the payment made? A. The City Chamberlain, I believe.

Q. You have no record of any dealings with any syndicate managers in that? A. I believe none appear on our books.

Q. Why do you put it down then as a syndicate if you dealt direct with the City Chamberlain? A. I don't know, sir.

Q. It would look as though you had made a bid and got the bonds direct from the Chamberlain. The next syndicate is Central Refunding Syndicate, manager, Speyer & Company allotment, \$500,000, on which \$50,000 was paid on March 11th, 1899, the same amount being returned on October 15th, 1899. Has that syndicate been closed? A. We are looking up that.

Q. There is no entry here of any profits? A. I could not make out that myself either.

Q. You find no entries of profits being received? A. No, sir.

Q. The next syndicate is Cleveland, Canton & Southern Syndicate. I find no entry of managers or allotments. Explain where you got the information for that item? A. From the journal in the security department shows all the moneys going out or coming for the purchase of sale of securities.

Q. It appears from that that on September 26th, 1899, there was a million dollars paid to somebody? A. Yes, sir.

Q. To whom was it paid? A. I don't know. I suppose we can find that out.

Q. That would indicate perhaps the syndicate managers or something of the transaction? A. Yes.

Q. Then from time to time there were repayments on account of that amount called, were there not? A. Yes.

Q. Down into 1901, but there is no statement here of any profits realized. Were there any profits? A. I don't know.

Q. Is there any account in the books of the Equitable Life

*Testimony of Henry Rogers Winthrop*

Assurance Society to which profits from syndicates are entered—any special account? A. I believe not.

Q. Of profits on syndicates? A. No, sir.

Q. Where do you look for such items? A. Either in profits or loss, or to reduce the cost of the bonds if we received any bonds as the result of the transaction, or purchased any such bonds.

Q. Have you looked sufficiently to be able to state that there is no entry showing the receipt of profits in these cases where I find no statement of the receipt of profits on the list?

A. I have not made up any of these figures personally so I—

Q. But it has been done under your direction? A. Yes.

Q. With instructions to make it complete? A. Yes, sir.

Q. Well, you have reason to believe, have you not, that profits were made in these cases? A. No, I have not.

Q. You don't know about it? A. No, sir.

Q. The next item is November 14th, 1900, Southern Pacific two to five year four and one-half gold bond syndicate, manager, Speyer & Co. Allotment \$250,000, received from G. H. Squire and associates. The syndicate was formed after Speyer & Company had bought from the Southern Pacific Company—is that ten millions? A. Ten millions.

Q. \$10,000,000 5 year  $4\frac{1}{2}$  Bonds at  $94\frac{1}{2}$  and Int. with an option of buying all or any part of \$5,000,000 of the same bonds at the same price on or before June 1st, 1901. The syndicate to continue to December 1st, 1901, unless sooner dissolved by them, the management thereof entirely in their hands. The Southern Pacific pays them a commission of one per cent. on the firm bid and upon the above bonds as called. That is, the Southern Pacific pays Speyer & Company. A. Yes.

Q. That is the statement of the transaction as you elicited it from the records of the company. A. Yes from the syndicate agreement.

*Testimony of Henry Rogers Winthrop*

Q. Under that the amount called at 94 and Int. \$201,285 on December 3d, 1900, which amount has been returned or was returned in January, 1901? A. Yes, sir.

Q. There is no statement there of any profit? A. No.

Q. You find no record of any? A. I have not.

Q. Who is G. N. Squire? A. He was the former financial manager of the Equitable.

Q. How long was he financial manager? A. I think for a period of about four years. It was before my time.

Q. Until what time? A. He was taken ill about the middle of last October, has since been out of active business.

Q. Was he a member of the Board of Directors or Trustees? A. Yes.

Q. Is he still a director? A. He resigned some few months ago.

Q. The office of financial manager was—what were the duties of that office? A. It was an office, I believe, created for him. While not an officer under the By-Laws he had certain powers given him by the Board of Directors, that is, in the by-laws there were special powers prescribed for the financial manager, and he was empowered to sign checks and certain contracts.

Q. Who were his associates in this syndicate? A. I don't know.

Q. Is there any record giving any clue to that? A. No, sir.

Q. The entry here is \$250,000 received from G. H. Squire and associates. That means that that was a part of a syndicate allotment which had been made to G. H. Squire and associates? A. I suppose so, yes.

Q. So far as you know, has any request for any statement of the results of that syndicate been made, either upon Speyer & Company or upon Mr. Squire? A. I believe not yet.

Q. I find the next one under date of December 24th, 1900,

*Testimony of Henry Rogers Winthrop*

Pennsylvania Coal Purchase Syndicate, managers J. P. Morgan & Co., allotment \$750,000, received from General Fitzgerald and others. What record have you indicating that this allotment was received from General Fitzgerald and others? A. I think there were some letters or memoranda to show that it had come from him, from him and the others.

Q. A letter from whom? A. I think from General Fitzgerald and others.

Q. Well, you mean signed "General Fitzgerald and others" in those words, or signed by General Fitzgerald and other persons? A. Well, that was the name—that corresponds to the other, G. H. Squire and associates, that is the way the allotment was made.

Q. Did you get information as to the allotment from G. H. Squire and associates on the participation in the Southern Pacific Syndicate from correspondence? A. By memoranda. I don't know what it was in each case.

Q. I would be glad to have you produce the memoranda there referred to in those two allotments. A. Yes.

Q. Have you any memoranda which shows who were acting with General Fitzgerald in this syndicate participation? A. No, sir.

Q. Is General Fitzgerald a trustee of the Equitable? A. Not now.

Q. Was he at this time? A. Yes, sir.

Q. Was he a member of any Committee? A. The Finance Committee and Executive Committee.

Q. Was he an officer apart from his membership in the Board? A. At one time he was one of the vice-presidents.

Q. Was he in 1900? A. I really don't know.

Q. The statement is made as to the term of this, that this syndicate was formed to underwrite to the extent of \$31,000,000 or \$32,000,000 par value of the 50-year four per cent. gold



*Testimony of Henry Rogers Winthrop*

bonds of the Erie Railroad Company or some other company guaranteed by the Erie Railroad Company, J. P. Morgan & Company to make a public offer of the bonds delivered or which shall become deliverable to the syndicate and which shall not have been withdrawn from sale as provided. Such offer may be made upon such prices and upon such basis as the syndicate managers shall see fit. At the termination each subscriber will be entitled to receive a commission of ten per cent. of the nominal amount of the bonds subscribed and payable either in Erie Railroad first preferred stock or in preferred stock of the proprietary companies guaranteeing the stock, in each case being taken at par. Those are the terms of the syndicate agreement? A. Yes.

Q. Under that it appears that the Equitable Life Assurance Society in January and February, 1901, paid \$624,375 on call I presume? A. Yes.

Q. And that they subsequently received back the whole amount? A. Yes.

Q. I find no entry of any profits upon that syndicate transaction. Are there any such? A. Not that I know of.

Q. It states here that at the termination of the syndicate each subscriber will be entitled to receive a commission of ten per cent. of the nominal amount on the bonds subscribed for, payable either in Erie Railroad First Preferred stock, or in the preferred stock of the proprietary companies, such stock to be taken at par. Did the Equitable Society receive any stock on account of this subscription? A. None shown in the books which this syndicate was booked under.

Q. Do you find any entry or memorandum of any stock having been received by General Fitzgerald? A. I believe not.

Q. Do you find any entry from which you can determine whether or not that syndicate has been closed? A. No.

Q. Does what I have stated here as entered on the list you

*Testimony of Henry Rogers Winthrop*

have furnished me—is it all you find on the books of the company? A. Yes.

Q. Or memoranda, or correspondence of the Company? A. Yes.

Q. Has any inquiry been made so far as you know of Morgan & Company, to ascertain whether profits in the shape of stock as provided for were distributed to the subscribers to the syndicate? A. Yes, inquiry has been made, but we have not yet received the answer as to all these things.

Q. The next syndicate I find is Union Pacific convertible bond syndicate, managers, Kuhn, Loeb & Company. Allotment \$500,000. The first date given is March 4th, 1901, when fifty per cent. of the subscription was called. That was called and paid, and in 1901, the amount was repaid to the Society. That is right, isn't it? A. Well, probably repaid to the Mercantile Trust Company.

Q. Well, repaid to the Mercantile Trust Company. The Mercantile Trust Company made this allotment to the Society? A. Yes.

Q. And the dealings in a case where the Society obtained a participation on allotment from another subscriber are with such other subscriber? A. Yes.

Q. That subscriber dealing with the syndicate managers? A. Yes.

Q. Do you have any memorandum which will show who are the other participants in the Mercantile Trust Company subscription? A. No sir.

Q. Do you know whether or not this syndicate has been closed? A. To my own knowledge, no sir.

Q. And in this case no bonds were withdrawn for investment? A. No sir.

Q. And that is so in the cases of the Southern Pacific Gold Bond Syndicate where the allotment was received from G. H.

*Testimony of Henry Rogers Winthrop*

Squire and associates, and also in the Pennsylvania Coal syndicate, the allotment from General Fitzgerald, no bonds were withdrawn for investment? A. I am not very sure on that. I would like to look that up.

Q. I am not referring to the purchase of bonds of this class in the market or from the syndicate managers, but bonds taken under the allotment? A. Withdrawn?

Q. Withdrawn. A. Withdrawn, yes sir.

Q. The next syndicate I find is under date of February 7th, 1901, railroad securities company, three and one-half gold bond syndicate; managers, Kuhn, Loeb & Company; allotment \$500,000, with the statement that the syndicate was formed for the purchase of \$8,000,000 railroad security company three and one-half per cent. Illinois Central stock, collateral, series A. Due January 1st, 1951, at 90 and interest, less two and one-half per cent. commission. The managers proposed to introduce those bonds on the market, either by means of private sale or public issue, or both, they to charge one-half per cent. commission for their services, the bonds to remain syndicated under their control. Those are the terms as you find them in the Society's record? A. Yes.

Q. What is meant by the words "to remain syndicated under their control?" A. That in case deliveries were made to the Society of bonds in exchange for money advanced, that the Society be not allowed to sell them on the open market, the bonds to be held subject to their own call.

Q. The Railroad Securities Company was formed to hold securities of railroad companies as its assets, was it not? A. I really don't know. I presume so.

Q. You don't know about that, whether it was a mere holding company which issued debentures secured by stocks of railroad companies—— A. It has in the case of the Illinois Central, I know that.

*Testimony of Henry Rogers Winthrop*

Q. I find that there was paid by the Equitable Society under date of March 27th, 1901, upon call to the syndicate managers \$500,000 in par at 90 and interest making \$490,000 paid, and then that amount was repaid and there was received as profits on April 24th, 1903, \$17,500, and the same was used to reduce the cost of one million dollars of bonds. That is right, is it not?  
A. Yes, sir.

Q. That syndicate seems to have been formed in the spring of 1901, or the date here is February 7th, 1901? A. Yes.

Q. I find under date of May 12th, in the record of purchases of securities a million dollars of Railroad Securities Company's 4's, 1952 at 94, from Kuhn, Loeb & Co.? A. Yes, sir.

Q. Are you able to state whether those were bought from the syndicate managers—the syndicate managers were Kuhn, Loeb & Co., but I mean whether it was bought as a part of the flotation of the securities by the syndicate managers? A. I don't know. They were bought of Kuhn, Loeb & Co.

Q. You are unable to state anything further in regard to that?  
A. Yes.

Q. I find another entry under date of January 25th, 1904, in the list of purchases Railroad Securities Co. 4's, 1952, Illinois Central, etc., \$250,000 for which was paid \$220,625, the purchase being from Kuhn, Loeb & Co.? A. That is a correct copy.

Q. Those are the bonds referred to in the syndicate list, Railroad Securities Company bonds? A. Presumably, yes.

Q. I find in the report of the Equitable Life Assurance Society to the Department of Insurance under date of December 31st, 1904, the following statement: Railroad Securities Company, Illinois Central; book value, \$1,143,125; par value \$1,250,000. Market value \$1,120,312. A. The book value \$1,143,125, is the cost of the securities purchased as I have stated, less the amount of profit on the syndicate which was applied in redemption.

Q. Do you know, or have you any record or memoranda which

*Testimony of Henry Rogers Winthrop*

would show that any individuals participated in that syndicate who were officers or members of the Board of Directors of the Equitable Life Assurance Society? A. No, sir.

Q. The next item I find on the syndicate sheet is April 3d, 1901, syndicate Rio Grande & Western First Consolidated 4's Syndicate managers, Kuhn, Loeb & Co. Allotment \$250,000. The terms, syndicate forms for the purchase of \$6,000,000 of these bonds. The syndicate managers charged 1 per cent on all actual sales, and I find a call of \$250,000 the entire amount at 90 and interest, for which \$225,000 was paid, and the receipt of payment apparently for the whole amount called.

Q. Is that right? A. Yes, sir.

Q. No bonds were withdrawn for investment under that allotment? A. No.

Q. And a profit was received of \$7,931.80, which was used to reduce the cost of the bonds that were purchased? A. Yes.

Q. The next syndicate on the list is Union Pacific Reorganization purchase money syndicate. I find no statement of the managers. Are you unable to ascertain who are the managers?

A. I can readily find out to whom we paid the money. I don't know why that was not looked up.

Q. Are you able to state now? A. No, sir. All this is being worked over again.

Q. There is no statement of the amount of the allotment. Is there any way of finding out what the allotment of the Equitable was? A. On application to the managers we can get it, I suppose.

Q. There is nothing in your records? A. No, sir.

Q. The amount called for under this appears to have been upward of \$3,000,000. I am right in that, am I not? A. Yes, sir.

Q. Can you explain these entries under amount called and result of purchase of securities? I refer particularly to entries

*Testimony of Henry Rogers Winthrop*

relating to stocks. I find here, for example, that a certain amount is reduced cost of B. & O. stock and Erie First Preferred and reduced cost of Erie Second Preferred stock. What is the explanation of those items? A. I will have to have that looked up. I really don't know about this.

Q. The first item under head of receipts is 5 per cent. commission on \$2,500,000, to wit: \$145,000. What is that? A. We received that from the Mercantile Trust Co., see the footnote No. 1.

Q. Well, was that a profit? A. It was entered as a five per cent commission on the \$2,900,000.

Q. All the transactions, all the receipts, appear to have been—or not all, but a number of them, from the Mercantile Trust Company? A. Yes, sir. They are looking up all this information for us.

Q. You are not in a position to state definitely at the present—  
A. No, sir.

Q. What the facts are in regard to that. Have you the syndicate agreement? A. No, sir.\* At least I don't think we have.

Q. Apparently you received a large number of shares of the Union Pacific preferred and Union Pacific first mortgage bonds from time to time? A. Either that or cash resulting from the sale of them.

Q. The sale of shares and bonds to which you were apparently entitled, therefore, just the proceeds? A. Yes, sir.

Q. And you have no information in detail as to the explanation of those items? A. We will have them very shortly.

Q. The next syndicate is Pittsburg and Toledo, syndicate managers Louis Fitzgerald, George J. Gould, Joseph Ramsay, Jr., Myron T. Herrick, Jr., J. W. Krech, Secretary. What does J. W. Krech, Secretary, mean, that he was secretary of the managers? A. He was secretary of the managers.

*Testimony of Henry Rogers Winthrop*

Q. And the allotment was \$400,000 that the Equitable had. Was the entire amount called? A. Yes, sir.

Q. And returned? A. No. We received in return securities amounting —

Q. Yes, you received in return \$301,500 par value of Wabash Pittsburg Terminal first 4's, which are taken at \$256,275? A. Yes, sir.

Q. And \$416,250 of Wabash Pittsburg Terminal second 4's which were at \$166,500, and 2,520 shares of Wabash stock taken at \$27,225. Can you explain what those were? I mean to say were they profits or partly securities which were underwritten by the syndicate, or the taking of which was agreed upon by the syndicate agreement? A. Well, by the syndicate agreement evidently, we were entitled to either securities or cash to the extent of our participation, and we received securities and not cash.

Q. And according to the records those accounts included all that the company was entitled to on account of its allotment? A. Yes, sir.

Q. Are you in a position from the records to determine that satisfactorily? A. No, sir; not from these—no, sir.

Q. April 25th, 1901, syndicate Chicago, Burlington & Quincy purchase syndicate, managers, J. P. Morgan & Company, allotment, \$500,000; terms: syndicate was formed for the purpose of underwriting new issue of the Chicago, Burlington and Quincy gold four per cent bonds, amount called in May and July, 1901, \$337,500. That apparently was returned on July 2nd, 1902, and interest at four per cent, and on top of which there was a profit of \$7,729. Is that the full transaction? A. Yes, sir.

Q. Have you any record or information of any individuals who were officers or directors of the company who participated in that syndicate? A. No, sir.

Q. Did the Equitable Life Assurance Society buy largely

*Testimony of Henry Rogers Winthrop*

of the syndicate managers of securities which were the subject of the syndicate agreement? A. I don't know whether we did or not, sir. Q. Those would appear in the statement I have here? A. Yes, sir.

Q. April 22nd, 1901, Chicago and Northwest, syndicate managers, Kuhn, Loeb & Company, allotment \$400,000; terms: Syndicate was formed by Kuhn, Loeb & Company to purchase from the Chicago & Northwest Railway Company at par and interest \$ Sioux City and Pacific Railroad first three and a half due 1926, \$2,300,000 Princeton & Northwest Railroad, first three and a half, due 1926, and \$2,225,000 Peoria and Northwest three and a half due, 1926; syndicate managers charge a commission of one per cent on the purchase of the bonds, which are to remain syndicated under their management. That last statement implies that the bonds were not to be withdrawn for investment but were to remain for sale in the hands of the syndicate managers, and the Equitable as a participant was to take its share of the syndicate profits? A. Yes, sir.

Q. Can you explain what appears in the list under the head of result in cash or securities, the references to various securities? A. We apparently received \$100,000 par of the Peoria and Northwest three and a half at a cost to us of par .137, or \$1,137, and the same way as regards the others, \$330,000 Princeton and Northwest first three and a half at a cost of \$30,300, and then that like refund from the syndicate managers which we used to reduce the cost of the bonds.

Q. Then there was transferred at the end to open account \$107,146? A. Yes. That is the entire Sioux City and Pacific.

Q. Oh, yes. Have you any information as to any individuals who were connected with the Equitable who were in that syndicate? A. No, sir.

Q. October 11th, 1901, Mexican National Readjustment



*Testimony of Henry Rogers Winthrop*

Syndicate, managers Speyer & Co., and Kuhn and Loeb & Co., this syndicate was formed in order to provide the cash requirements for certain plans and agreement of readjustment dated October 8th, 1901, where it is proposed to undertake a readjustment of the affairs of the Mexican National Railroad Company on the basis of 20,000,000 four and a half per cent gold bonds, 15,000,000 first consolidated 4's and 35,000,000 of non-cumulative preferred stock and 15,300,000 of new common stock, the maximum obligation of the syndicate not to exceed the sum of \$25,000,000. The readjustment managers paid to the syndicate managers for the benefit of the several syndicate subscribers a commission or compensation of three per cent and cash on the amount of their subscription. You are unable to state what the participation of the Equitable is in that syndicate? A. Yes, sir.

Q. There was a call of \$100,000 on November 25th, 1901?  
A. Yes, sir.

Q. The result was a profit or that was repaid in 1901, and there was a profit of \$20,821.57? A. Yes, sir.

Q. No bonds were withdrawn for investment? A. No, sir.

Q. The next syndicate I find here is Atlantic Coast Line Railroad syndicate. The managers are not stated; have you any information on that? A. We are looking that up.

Q. The allotment is not stated. You are not aware of that?  
A. No, sir.

Q. It is stated that the allotment was from J. H. Hyde and associates. Do you know who were associated with J. H. Hyde in that matter? A. No, sir.

Q. How did you get the information that J. H. Hyde and associates were in it? A. We have their letters or memoranda showing that the allotment came from that source.

Q. I should be glad to have you produce whatever letters or memoranda you find in the Company's possession upon that point. It appears that the Equitable Assurance Society paid

*Testimony of Henry Rogers Winthrop*

on account of its syndicate participation October 8th, 1902, \$750,000 and May 12th, 1904, \$600,000, and \$26,096 interest for carrying. That is correct, is it not? A. Yes, sir.

Q. Under the head of results of cash I find under date of October 23rd, 1902, a statement: "Received \$350,000." I find on the same date in the record of sales of securities, "October 23rd, 1902, Atlantic Coast Line par \$350,000, amount received \$350,000, to, James H. Hyde." Can you explain that entry? A. It went to him as the syndicate allotment was received from him and as a call would be made on him for the participation—on him for the securities which had been—that he had received. He would in return make a call on the society for the amount of their participation.

Q. And so in every case where we find under the head of results that the Equitable Assurance Society received payment of a certain amount, it received that amount from Mr. Hyde? A. I don't quite understand your question, sir.

Q. (Read by the stenographer.) Of course I am speaking with regard to this particular syndicate? A. This transaction; yes, sir.

Q. The Equitable has put up \$1,326,096 on its participation? A. \$376,000.

Q. Yes, sir; \$1,376,096 of its participation? A. Yes, sir.

Q. And those amounts due, I understand, were paid to Mr. Hyde? A. Yes, and he in turn paid them to the managers.

Q. And then when it received these amounts aggregating \$1,376,096 it received those back from Mr. Hyde. All its dealings were with Mr. Hyde? A. Surrendering their participation, their rights, or whatever they received for the money paid out.

Q. Well, the Society retained its interest in the syndicate? A. Yes.

Q. It merely got back the money which had been called? A. With a profit of \$114——

*Testimony of Henry Rogers Winthrop*

Q. Well, we will come to that in a minute. It got back the amount which had been called, exactly, with the interest they had had to pay? A. Yes.

Q. And as it had paid the money to Mr. Hyde it got back the money from Mr. Hyde? A. Yes.

Q. But it retained its interest in the syndicate so that on December 13th, 1904, it received on the transaction a profit of \$114,600? A. Yes, sir. It didn't pay out to Mr. Hyde money for securities purchased. He was just a middle man between the syndicate managers and the society.

Q. So I understand. When I said paid to Mr. Hyde I meant paid on calls. A. Yes.

Q. As I understand it, the syndicate managers who are not named here, you don't know who they are? A. Well, we are looking, we will find that out.

Q. The syndicate managers made a call on the subscribers? A. Yes.

Q. And their subscriber was J. H. Hyde and associate? A. Yes.

Q. When that call was received by J. H. Hyde and associates a call was made on you for your proportionate part? A. Yes.

Q. That is, on the society? A. That is it, sir.

Q. And the society paid its proportionate part amounting to \$1,376,096, and then when refunds were made by the syndicate managers to James H. Hyde and associates, the society received back the amount it had procured, from Mr. Hyde? A. Yes.

Q. Now, the closing of the transaction showed a profit to the Company of \$114,500? A. Yes, sir.

Q. That was December 13th, 1904? A. Yes, sir.

Q. Have you any correspondence with Mr. Hyde or James H. Hyde and associates with regard to that profit? A. We have some memoranda or letters at the time the check was received, yes,

*Testimony of Henry Rogers Winthrop*

Q. That check was received from Mr. Hyde? A. Yes, and his associates; yes.

Q. From J. H. Hyde and associates? A. Yes.

Q. You got a check for your share of the profits? A. Yes, sir.

Q. Of \$114,500? A. Yes, sir.

Q. Is there anything upon your records to show what profit Mr. Hyde got? A. No, sir.

Q. Or who Mr. Hyde's associates were in the matter? A. No, sir.

Q. Or what profit anybody got except the company? A. No, sir.

Q. Has any effort been made to ascertain that? A. We have written to all the syndicate managers asking for general information with regard to all the syndicates that the society has been in for the past ten years and the allotments, and whether the syndicates are still open or have been closed. We are awaiting replies.

Q. I understand that that matter was embraced in what is called the Frick report, that syndicate. Am I right in that? A. No, sir; it is not.

Q. Was that presented to the Frick Committee? A. Well, the Frick Committee had access to all the books and I——

Q. Was that a case in which the Equitable, so far as your inquiries have enabled you to ascertain, purchased any bonds from the syndicate managers? A. I don't know whether they did or not, sir.

Q. Did you know what particular issue of securities it referred to? A. No, sir.

Q. Well, was it the Atlantic Coast Line, Louisville, Nashville or Atlantic Coast Line mortgage bonds? A. Well, it was one of the two of them, but I would not like to state which. I have not seen the syndicate agreements.

*Testimony of Henry Rogers Winthrop*

Q: From a casual examination of the list of sales that you have furnished I don't find any statement of those securities as purchased by the society except the statement of these amounts, which you have also testified to were paid on account of the syndicate subscription, and very likely it was omitted from the Frick report for the reason that it did not appear that the society had purchased securities from the syndicate managers. But I would be glad to have you look that up and give whatever information you can on the subject. I note that the payment of \$750,000 referred to there under date of October 8th, 1902, the first payment by the society was, according to your list of purchases, under that date, paid to J. P. Morgan & Company. A. Well, they were presumably the syndicate managers.

Q. Then they were the syndicate managers? A. That is what we are looking up now.

Q. Then you can very readily ascertain what person interested in your society had any interest in the syndicate, and at present we will take it for granted that no bonds were bought by the society from the syndicate managers, but I should be glad to have you look over the records carefully so that we may be certain of that before the subject is passed. The next syndicate on the list is Western Maryland Railroad Company syndicate, the managers, Vermilye & Company, and George P. Butler & Company. You don't know what allotment was made there? A. No, sir.

Q. Apparently the society took and transferred—in the first place the society paid about \$2,030,000 on calls? A. \$1,830,000.

Q. \$1,830,000 on calls, and then it transferred to bond account \$1,000,000 at par at a cost of \$915,000? A. Yes, sir, at 91½.

Q. I find no record of any profits in that transaction? A. That syndicate is not yet closed. We still have a participation in the syndicate of \$1,000,000.

*Testimony of Henry Rogers Winthrop*

Q. Do you know whether any, or have you any information whether any other persons who have been officers in your company have been interested in that? A. No, sir.

Q. The next syndicate is Chicago & North West Railroad Company Joint Consolidated 3½ due 1987, managers, Kuhn, Loeb & Co., allotment, \$1,200,000 through the Mercantile Trust Co. Syndicate formed for taking over Kuhn, Loeb & Company's purchase of 20,000,000. I understand from that that Kuhn Loeb & Co. had bought 20,000,000 of the Chicago & Northwest joint consolidated 3½ and a syndicate was formed to buy them That is right, isn't it? A. Yes, sir, presumably so.

Q. The Mercantile Trust Co. was the subscriber through whom your society got its participation? A. Yes, sir.

Q. Do you know what the total amount that the Mercantile Trust Co. subscribed was? A. No, sir.

Q. Or who else was interested in it? A. No, sir.

Q. Have you taken steps to ascertain? A. We have asked the Mercantile Trust Co.

Q. I would be glad if you would furnish the details of that. Apparently no profits have been paid over on that syndicate? A. No, sir.

Q. It is still open? A. I really don't know, sir.

Q. Well, you can get full information about that? A. Yes, sir.

Q. Now, the next item on the list is Union Pacific Preferred stock, syndicate managers, Kuhn, Loeb & Company. What information have you that the Equitable Life Assurance Society was a party to that syndicate? A. The fact that we have paid on—at various times sums of money, receiving in return certificates of Union Pacific Preferred stock.

Q. What amount of money has the society paid? A. Apparently \$1,920,000.

*Testimony of Henry Rogers Winthrop*

Q. What amount of Union Pacific Preferred stock does it hold by reason of those payments? A. 20,500 shares.

Q. In whose name do those certificates of stock stand? A. They are in the name of Kuhn, Loeb & Co., but endorsed in blank.

Q. To whose order were the checks for the various payments aggregating the amount you have mentioned made? A. Kuhn, Loeb & Co.

Q. Are there any receipts or acknowledgements of payments other than the certificates of stock themselves on the files of the Equitable from Kuhn, Loeb & Company? A. I don't know.

Q. Will you please look that up and if there are, please produce them. I understand that on January 22d, 1903, the Equitable Life Assurance Society paid Kuhn, Loeb & Co. \$500,000, on June 16th, 1903, \$900,000, July 26th, 1904, \$380,000, and August 2d, 1905, \$270,000? A. No, sir.

Q. Or rather that those are the par values of the amounts—of the stock for which the payment was made, the payments being in the first two instances \$500,000 and \$900,000 respectively in the third \$270,000, and in the fourth \$250,000? A. Yes, sir, that is right.

Q. Have you any memoranda or documents or entries which will show the terms of that syndicate? A. No, sir.

Q. You have not then a copy of the syndicate agreement? A. No, sir.

Q. Have you sought to obtain one? A. I am not—I think application was once made for one, but—

Q. You can readily obtain a copy of the syndicate agreement, as you are making payments under it, and I would be very glad if you would and produce it? A. Well, the—Kuhn, Loeb & Company are the agents of the syndicate managers and they do not recognize the Equitable Life as a participator in the syndicate.

Q. In what way have they indicated their refusal to recognize

*Testimony of Henry Rogers Winthrop*

the Equitable as a participator? A. Well, they haven't refused but they --we have--this syndicate was taken out in the name of James H. Hyde and an assignment is on file and is in our security department of all his right and interest in the syndicate, and we have applied to Kuhn, Loeb & Co., asked them to recognize that assignment, and they stated that when the syndicate managers got together that question will be brought up, but that they cannot recognize us until the syndicate managers get together and decide whether they will or not, that they are only the agents of the syndicate managers.

Q. Who are the syndicate managers? A. Well, I am not sure, but I believe they are Mr. Schiff, Mr. Harriman and Mr. Stillman.

Q. Have you here the original or a copy of Mr. Hyde's assignment to the Equitable? A. We haven't here; we can bring you the original, if you want it.

Q. Have you a record on the minutes of any Committee approving the acquisition of that interest from Mr. Hyde and the assignment of the obligations under it? A. Yes, sir.

Q. Produce that. A. On July 19th, 1905, meeting of the Executive Committee. Present: Messrs. Snyder, Krech, chairman of the Board of Directors, second and third vice-presidents, comptroller and secretary of committee. The Chairman reported that he had received from Mr. James H. Hyde an assignment of all his interest in the contract between himself, E. E. Harriman and others in the purchase of the preferred stock of the Union Pacific Railroad Company, which was ordered sent to the security department.

Q. What was the date of that assignment? It is not referred to there. A. No; it was just previous to this meeting.

Q. Then do I understand that down to July, 1905, the Society had no assignment in writing from Mr. Hyde of the interest in this syndicate? A. Yes, sir, that is right, it had not.

Q. But prior to that time the Society had paid \$1,670,000 to



*Testimony of Henry Rogers Winthrop*

Kuhn, Loeb & Co. on account of this participation? A. Yes, sir.

Q. Have you any record of the action of any committee approving the payment? A. We find in the minutes of the Finance Committee that as each of those payments were made that they were approved at the meetings of the Finance Committee.

Q. Will you produce those, please? You have called my attention to the fact that the first two payments by the Equitable were at par and that the third payment was at an amount considerably less than par. Will you explain the reason for the variation? A. Well, the first two payments were made on account of the syndicate, and while we received securities which at par value amounted to the payments which we made, the third payment, which was a payment for the purposes of adjustment, really give us the average price at which we received the securities, which bring it down below par. The Society did not purchase half a million at par, but they paid par for it at that time, subject to the adjustment which the third payment made.

Q. And what was the adjusted price? A. I will figure that up. I will have that figured up. We will have to add the three payments.

Q. Well, you can do that later? A. Yes, sir.

Q. The price of course, the adjusted price, is the ratio of——  
A. It is about——

Q. \$1,670,000 to \$1,780,000? A. Yes, sir.

Q. Now, I ask you for the minutes of the Finance Committee which authorized or approved these payments prior to the time of Mr. Hyde's assignment? A. On February 2d, 1903, the purchase of \$500,000 Union Pacific holding syndicate at par was approved.

Q. Is that the entry, Union Pacific Holding syndicate? A. Yes, sir, that it is the way it is in the book.

Q. What is that book? A. That is the security registry,

*Testimony of Henry Rogers Winthrop*

which contains a list of all purchases and sales with the prices made during the month and reported at the monthly meetings of the Finance Committee.

Q. Whose handwriting is that in? A. Mr. Gilchrist.

Q. Who is he? A. He is the superintendent of our security department.

Q. From what does he make that entry? A. From his journal.

Q. And where does he get the information for his journal?  
A. From records sent down from the financial manager.

Q. In the form of a voucher or authorization for payment?  
A. Yes, sir.

Q. Have you got the original voucher or authorization of payment that lies back of this entry? A. The cashier has it.

Q. In other words Mr. Gilchrist would get it for his journal and then turn it over to the cashier? A. The cashier would have it for the receipt of his money paid out.

Q. And then turn it over for entry to Mr. Gilchrist? A. No, sir; the cashier is the custodian of the receipt, he being responsible for the money paid out.

Q. I would like to have the cashier's voucher for the payment?  
A. Yes, sir.

Q. Then I understand this security register goes before the Finance Committee? A. Is read and is part of the minutes of the Finance Committee.

Q. Now, what form do the Finance Committee's minutes take on this subject? A. Shall I read the entry?

Q. Yes, read the entry. A. The Committee on Finance at the rooms of the Society on Monday, February 2nd, 1903, at 1 P. M. Present, Messrs. Wheelock, Depew, Schiff, Squire, Snyder, W. H. Baldwin, Jr., Deming, President, Vice-President and Secretary of the Committee. Minutes of the last meeting were read and approved. Purchase of the securities to the amount of \$3,835,-

*Testimony of Henry Rogers Winthrop*

ooo, and the sale of securities to the amount of \$2,633,500 were reported and approved as recorded in the security register.

Q. Do you know whether or not in fact the entries in 'the security register were actually read at the meetings of the Finance Committee' or was the approval pro forma without going to the trouble of reading the entries? A. No. They were always read whenever I acted as secretary.

Q. How often have you acted as secretary? A. Regularly since last October, and on and off for a year preceding that, on very rare occasions; perhaps once or twice a year.

Q. Take the minutes you have just read. Who was the secretary then? A. William H. McIntyre.

Q. Take the next entry of June 16th, 1903, payment of \$900,000. What is the entry in the security register? A. \$900,000 Union Pacific preferred stock syndicate par.

Q. And then that came before the finance committee at what meeting? A. This came before them at a meeting held July 6th, 1903.

Q. And what took place then and who were present? A. "July 6th, 1903. Present: Messrs. Schiff, Squire, Snyder, Deming and Secretary of Committee. The purchase of securities to the amount of \$2,971,700 and the sale of securities to the amount of \$3,066,500 were reported and were approved as recorded in the Security Register.

Q. Then in no case were the details of the purchases or sales incorporated in the minutes of the finance committee? A. No, sir.

Q. But the practice was to read from the security register and then the Committee takes action? A. Yes, sir.

Q. Does the committee take action on each particular security as it is read or did it approve the whole bunch in one vote? A. If any question came up in regard to any purchase or sale as

*Testimony of Henry Rogers Winthrop*

it was read the committee would make an expression of approval or disapproval.

Q. The next payment that you have here is under date of July 26th, 1904. What is the entry in the security register for the payment of \$270,000 on that date? A. On August 8th, 1904, 3,800 shares Union Pacific holding syndicate at a cost of \$270,000.

Q. And that was approved at what meeting of the Finance Committee? A. The same meeting of August 1st.

Q. That you have just read the minute of? A. No; just read this from the security register.

Q. Of course you are referring to an earlier period, a year before. A. Do you wish August 1st?

Q. Yes. A. Present: Messrs. Snyder, Deming and Secretary of the committee. The purchase of securities to the amount of \$7,011,540 and the sale of securities to the amount of \$171,560 were reported and were approved as recorded in the security register.

Q. Who constituted a quorum of the finance committee? A. A majority of its members.

Q. Was there a quorum present at this meeting of August 1st, 1904? A. No; there were only two members at that meeting.

Q. Was it a practice in the Equitable Life Assurance Society to act without the presence of a quorum in finance committee? A. Well, I don't think so, no. Presumably this was read at the next meeting.

Q. Will you see if it was? A. It doesn't so state, though, on the minutes.

Q. Are you able to state whether in practice attention was paid to having a quorum present at the meeting of the Finance Committee? A. Since I have acted as secretary there has always been a quorum present.

*Testimony of Henry Rogers Winthrop*

Q. How long are the meetings of that committee as a rule?

A. Fifteen minutes to three-quarters of an hour or an hour.

Q. Now, was the action that you have indicated with regard to the payments in the case of the Union Pacific preferred stock syndicate taken in the first instance by the Finance Committee, or had the executive committee acted in the matter in the first instance? A. Well, this may have all been brought up at the Executive Committee.

Q. Well, do you know whether or not they were? A. Well, it is difficult to say whether they were or not.

Q. Well, are there any minutes or records of the Executive Committee having acted in the matter prior to the payments having been made? A. I will show you the committee records, sir.

Q. What I want to get at is this: The Finance Committee registered its approval in the minutes as you have shown after the transaction had taken place? A. Yes, sir.

Q. Now, I want to know what authority from any committee antedated the payment of those moneys on account of that syndicate? A. Well, at the regular meetings of the Executive Committee held three times a week the purchase and sale of securities are brought up for discussion, but the minutes of each one of the meetings previous to this year would only state that the minutes of the last previous meeting were read and confirmed, and all transactions completed since that date were reported and approved.

Q. That was a stereotyped minute? A. Yes, sir.

Q. All the meetings of the Executive Committee are practically in that form? A. Up to very recently.

Q. So that you don't find any action of the executive committee specifically recorded in connection with this Union Pacific preferred stock syndicate? A. No, sir, except in the form of——

Q. And you don't know therefore whether or not in fact any

*Testimony of Henry Rogers\_Winthrop*

action was taken by the executive committee? A. No, I don't know, sir.

Q. I mean you are unable to ascertain from any record of the Society? A. Yes.

Q. Now, although you did not have a formal assignment of Mr. Hyde prior to last July of this interest in the Union Pacific preferred stock syndicate, did you have any correspondence or any informal paper under which the Society assumed his subscription? A. Before the first payment was made the Society gave to Mr. Hyde a guarantee that he would be held harmless. from any results from the syndicate from which he—and notified him that they would hold him responsible for any profits which were sent to him, and I can give you a copy of that.

Q. Have you that here? A. No, we haven't it here. I can get it.

Q. I should like to have that, and also to know whether there was any action of any committee authorizing the assumption of that obligation or in dealing with the matter in that way? A. Well, that is not on the minutes of either the Executive or Finance Committees, the authorization for that guarantee. We have looked for that.

Q. Yes. So that you would find simply a statement that such and such an amount of money had been paid out for certain securities in the security register and the approval of that by the Finance Committee, and no specific mention of the details of any transaction in the minutes of the Executive Committee? A. No, sir.

Q. I see a statement here that the syndicate was not closed. A. Yes, sir.

Q. Have you had any communication indicating the purport of the words "Holding syndicate" as they appear in the security register? A. No. That was the first entry and it has been carried along on our books in that way since.

*Testimony of Henry Rogers Winthrop*

Q. Are there any communications from Kuhn, Loeb & Company regarding this matter on the files of the Society? A. Not of the Society, no, sir.

Q. Are there any communications to Mr. Hyde on the files of the Society? A. We have copies of several letters which they have sent to Mr. Hyde.

Q. Will you produce them please? A. Yes, sir.

Q. Are they here now? A. No, sir.

Q. I would like to have those produced. And also you have in mind a copy of the syndicate agreement that you can readily get? A. Yes, sir.

Q. Was any different action taken on August 2nd, 1905, when the last payment of \$200,000 was made than had been taken when previous payments were made? A. When, sir?

Q. August 2nd, 1905, the payment of \$250,000. A. Well, we have the minutes. After the entries on July 19th in regard to the assignment of James H. Hyde's interest the following minute is found: "The Committee authorized the payment of \$250,000 on July 27th, the Society to receive against the same 2,700 shares Union Pacific preferred stock, the same now to be transferred." Then follows further minutes with regard to authorization to sell same.

Q. Were you present at this meeting? A. I was present as secretary of the committee.

Q. Will you allow me to look at that minute (Minute shown counsel). I notice in this minute the words "Authorized the payment of \$250,000 on July 27th; the Society to receive against same 2,700 shares Union Pacific preferred stock, the same not to be transferred." What was the meaning of that entry? A. In the letter from Kuhn, Loeb & Company to James H. Hyde they stated that that was a consideration of the call; they made a call on him for that amount of money and giving up that amount of shares of the Union Pacific preferred stock.

*Testimony of Henry Rogers Winthrop*

Q. Was there any statement as to the length of time during which it was to be held? A. Presumably to be held during the life of the syndicate.

Q. Did you have information as to the duration of the syndicate? A. We have not as yet; we hope to get it.

Q. Well, the Committee did not authorize the payment of this amount upon the condition that the shares were not to be transferred without knowing how long a time was involved and to know the Committee authorized that payment because it was one of a sequence of the former authorization of having gone into the syndicate.

Q. But it would be natural for the Committee to ascertain during that time it was expected the stock should be held? A. Yes.

Q. Do you know whether they did ascertain that? A. We are endeavoring to ascertain that fact. We have asked for a copy of the syndicate agreement.

Q. Well, did not the Committee ascertain it at this time? A. No.

Q. Before authorizing the payment? A. No.

Q. Did it endeavor to do so? A. No. That act was only an act of following the previous authorizations.

Q. I notice that after discussion in the matter of the Union Pacific Preferred holding syndicate—I read from the same minutes—it was on motion, duly seconded, resolved that the Chairman should have power to sell the Society's interest in this syndicate at cost with interest at 4 per cent. Do you know what reason there was for that action? A. No, sir.

Q. Or what ground it was based upon? A. No, sir.

Q. Are you prepared to say that the Committee was wholly in the dark as to the length of time during which the shares were held? A. I really don't know.

Q. Was it not a period of some years? A. I don't know.



*Testimony of Henry Rogers Winthrop*

Q. This letter that you refer to, addressed to Mr. Hyde by Kuhn, Loeb & Company, which contained the words, "The same are not to be transferred," you do not happen to have here? A. No.

Q. That you will furnish? A. We will furnish you either that or a copy.

Q. The next syndicate I find on the list is Southern Railway notes, series C, syndicate. Managers not stated. Payment has been made, however. To whom was the payment made? A. We are looking all these facts up where the——

Q. There a profit has been received? You are not prepared to state from whom at present? A. No, the ledger does not show to whom the money was paid out or received. We have to get that from the cashier's department.

Q. The next is International Navigation Company First Mortgage Bonds Syndicate. Managers J. P. Morgan & Company. Allotment through J. H. Hyde and associates. Terms, this syndicate was formed to furnish bankers such cash sums as in the aggregate shall not exceed \$5,000,000—is that \$5,000,000? A. \$5,800,000——

Q. \$5,855,255, to make payment for the purchase of \$6,330,000 of First Mortgage Bonds of the International Navigation Company of New Jersey, the name of which has been changed to the International Mercantile Marine Company, at 95 and interest less commission of  $2\frac{1}{2}$  per cent. What was the amount of the allotment? A. Apparently \$500,000 par.

Q. Is there any correspondence on file regarding the allotment through J. H. Hyde and associates? A. Either correspondence or memoranda.

Q. I should like to have those produced. Is there any statement or information as to who Mr. Hyde's associates were in the matter? A. No, sir.

*Testimony of Henry Rogers Winthrop*

Q. The Society, according to this statement, has paid—— A. \$462,500.

Q. I don't quite understand—well, I will not go into that. Now, do I understand that when J. P. Morgan & Company called on the Equitable Society for payment on the syndicate subscriptions, they did not call at par? A. They called on J. H. Hyde and associates on March 23, 1903, for a part of \$250,000, on which we paid \$231,250.

Q. They called on James H. Hyde and associates for the amount due on the subscription, or that is for a proportionate amount? A. Yes.

Q. Due on the subscription of J. H. Hyde and associates? A. Yes.

Q. And the part that the Society had in the call was \$250,000 par? A. Yes.

Q. But the amount which the Society was required to pay under that call was \$231,250? A. Yes.

Q. Similarly, in the one on May 8, 1903, the Society's share was \$100,000 par, but the Society only paid \$92,500? A. Yes.

Q. And June 8, 1903, the call was \$75,000 par, but the Society had to pay \$69,375? A. Yes.

Q. And on July 10, 1903, the call was for \$75,000 par and the Society paid \$69,375? A. Yes.

Q. Have you information enabling you to state whether the call upon the subscribers generally of that syndicate was at a rate less than par? A. Well, you can see, Mr. Hughes, that the par value and the cost show that each one of those stocks was at 92½.

Q. 92½? A. Yes, the syndicate price as mentioned in the terms.

Q. Have you any information which will enable you to say that was the call generally made on the subscribers to the syndicate by Morgan & Company, at 92½ instead of par? A. Pre-

*Testimony of Henry Rogers Winthrop*

sumably it was. We have not the letters from J. P. Morgan & Company.

Q. Now under the head of result in cash or securities we find, January 4, 1905, certificate surrendered for bond, \$500,000. That means you had certificates for the interest in the syndicate?

A. As we made payments.

Q. As you made payments? A. We gave certificates.

Q. When you surrendered the certificate and got bonds? A. Yes.

Q. And those bonds were for the full amount in par of the par of the calls and the actual cost of those bonds to you was \$462,500? A. Yes.

Q. On December 31st, 1904, the Equitable Life Assurance Society made its report to the department of insurance or the Superintendent of Insurance and it put the International Navigation syndicate interest at book value \$462,500? A. Yes.

Q. That was the amount which they had actually paid for the bonds? A. The actual book value.

Q. The actual book value, and then they put the par value, 400,000 which was the par of the bonds they had taken. A. Yes.

Q. Then they put market value \$433,751, the market value being considerably less than the cost?

Q. How was that figured out, I mean to say on what basis was the market value taken at less than the par and less than the cost? A. All market values are made up from stock exchange records or records as reported in the financial journals.

Q. So that you took the bonds at the market value of about 86? A. Yes, sir.

Q. Or not at par, or not even at what they had cost you? A. We put the bonds in our statement to make up our assets at the actual selling price of the bonds at the end of the year.

*Testimony of Henry Rogers Winthrop*

Q. The actual selling price of the bonds at the end of the year was about 86? A. To the best of our information.

Q. At which you carried them? A. Sure.

Q. Have you any information as to what interests Mr. Hyde himself or other associates had in this matter? A. No, sir.

Q. Or who his associates were? A. No, sir.

Q. And no memoranda or letters of that matter? A. No, sir.

Q. The next syndicate I find mentioned here is Union Pacific 1½ year five per cent. note syndicate, managers Kuhn, Loeb & Company, participation is not stated? A. The first entry on our book is that we paid out \$172,375 receiving in return a receipt for that amount.

Q. That was in August, 1903, and a similar payment at 98½ and interest was made Sept. 1st, 1903, for another \$175,000? A. Yes.

Q. And then the whole lot of \$350,000 were transferred to bond account? A. Yes and we afterwards received a profit amounting to \$2,625.

Q. That was received direct from the syndicate managers? A. Presumably, yes, sir.

Q. The next syndicate is dated October 28th, 1903, Philadelphia, Baltimore & Washington bond syndicate, Kuhn, Loeb & Company? A. This syndicate and the one immediately following it were a part really of the same syndicate, if you will notice.

Q. That is the one immediately following Long Island refunding 4 per cent. bond syndicate, Kuhn, Loeb & Company. The terms are stated here: "Syndicate formed by Kuhn, Loeb & Company for the purchase of \$10,000,000 Philadelphia, Baltimore & Washington 4 per cent. bonds and \$10,000,000 Long Island Railroad refunding 4 per cent. bonds, the latter unconditionally guaranteed as to principal and interest by the Pennsylvania Railroad." I do not find any statement of the amount of the allotment there. Have you any information on that?

*Testimony of Henry Rogers Winthrop*

A. No. The first entry in our books is the first payment on January 11, 1904.

Q. I find that in the Frick report under date of October 28th, 1903, a reference is made to a syndicate allotment of \$600,000 from Kuhn, Loeb & Company to James H. Hyde and associates in the syndicate of the Philadelphia, Baltimore & Washington and Long Island refunding 4's. Is not that the same syndicate?

A. Yes.

Q. But I do not find in the Frick report any mention of any participation by the Equitable Society in the allotment of James H. Hyde and associates, which seems to be accounted for by individual participation without reference to the Equitable as a society? A. Apparently—the Equitable apparently had its allotment directly from the bankers.

Q. And James H. Hyde and associates had their allotment directly from the bankers? A. Yes.

Q. And according to the Frick report the allotment of James H. Hyde and associates was a total of \$600,000 and you have no data which will enable you to state the allotment of the Equitable? A. That we will be able to furnish you very soon, I believe.

Q. What memoranda or letters are there on the file of the Equitable which shows that there was an allotment to the Equitable direct from Kuhn, Loeb & Company apart from James H. Hyde and associates in this syndicate? A. I will have that looked up, Mr. Hughes.

Q. I would like to have whatever you have on that point. A. I have made a note of it.

Q. There are payments made here as follows: January 11th, 1904, at 101 and interest \$20,000; ditto \$100,000; total \$121,200. To whom was those payments made? A. I think they were made to Kuhn, Loeb & Company.

Q. Direct? A. Direct.

Q. And not through James H. Hyde and associates? A. No.

*Testimony of Henry Rogers Winthrop*

Our method of getting these facts up—where we do not put it to James H. Hyde and associates, I believe it will be found that the payments were made direct to the syndicate managers.

Q. I assumed that and wanted it brought out clearly. Then when on January 18th, 1904 the Equitable received \$121,200 they received that direct from Kuhn, Loeb & Company? A. I believe so.

Q. And also received a profit on their interest in the syndicate of \$2,386.11? A. Part of which profit belonged to the Long Island refunding 4 per cent. gold bond syndicate as well.

Q. They were handled together? A. Yes, sir.

Q. I find in the Frick report a reference to a minute or action of the executive committee on October 30th, 1903, at which were present Messrs. Alexander, Wheelock, Depew, Squires, Schiff, Deming, Baldwin and George Jordan whereby it was resolved that the matter of subscribing to the syndicate formed by Kuhn, Loeb & Company for the \$10,000,000 Philadelphia, Baltimore & Washington new 4 per cent. bonds and the \$10,000,000 Long Island Railroad refunding 4 per cent. bonds, the latter unconditionally guaranteed as to principal and interest by the Pennsylvania Railroad, be left to the president and vice-president with power. So according to that, the taking of a participation in the syndicate direct by the Society was brought up before the executive committee, and discussed and power given to the president and vice-president to act in the matter. I am right in assuming that? A. I believe so, yes.

Q. You have made a note of the memoranda and letters with regard to that have you? A. Yes, sir.

Q. The next syndicate is under date of May 6th, 1904, Imperial Japanese Government 6 per cent. sterling loan syndicate first series, managers Kuhn, Loeb & Company, allotment \$750,000 through J. H. Hyde and associates. This syndicate was formed for the purchase of these bonds by Kuhn, Loeb & Company at

*Testimony of Henry Rogers Winthrop*

89 and interest. There no payments were made by the Society?

A. No, sir.

Q. That is under the syndicate? A. Under the syndicate.

Q. And the Society on June 2d, 1904, received a profit of \$8,784 and on June 11, 1904, a further profit of \$9,613. That is the syndicate allotment of the Equitable Life referred to in the Frick report under date of May 6th, 1904? A. Yes.

Q. As a part of the total amount allotted to J. H. Hyde and associates. Now the second syndicate in 6's, Japanese government 6's, was not until November, 1904, as I understand it?

A. That has no reference to the one we are working on.

Q. Yes, I say the second one was in November. A. Yes.

Q. So that the purchases made by the Society of Japanese 6's were purchases of this first issue referred to in the syndicate?

A. Well, if it so states, we purchased bonds in each of the two syndicates.

Q. Yes, but the purchases prior to November, 1904, were of the flotation to which this first syndicate had reference? A. Yes.

Q. Now I find in your record of purchases the following: May 25, 1904, Imperial Japanese Government Bonds, 6% Sterling loan, par, \$170,000, amount paid less interest, \$170,000, purchased from Kuhn, Loeb & Company. June 30, 1904, Imperial Japanese Government 6% Sterling loan, \$1,404,812, amount paid less interest, \$1,404,812, Kuhn, Loeb & Company. The same date, Imperial Japanese Government 6% Sterling loan, \$1,655,800; amount paid less interest, \$1,551,352. From whom was that last batch purchased? A. There is a ditto mark.

Q. Those are ditto marks? A. I believe so.

Q. From Kuhn, Loeb & Company. I notice in the report, under the statement of the first syndicate, it is said, "The Society purchased \$1,801,900 in this syndicate, which cost them \$1,688,117." Is it correct to say that in fact they purchased about \$3,200,000 of those? A. Well, I would like to look at our

*Testimony of Henry Rogers Winthrop*

sales of the same date to see if some of these were not sold. We have at various times, Mr. Hughes, bought a larger block of securities than what is really a purchase. We will buy frequently more securities than the Society wants, letting one of the trust companies have the benefit of the same price as what we paid for ours, so if there is a sale on the same date it will show the net purchase to us of that date.

Q. Now you take the first date I gave, May 25, 1904, a purchase of \$170,000 of Japanese 6's. I find nothing in the sale sheet at that time. A. Then that is not one of the cases.

Q. On the other hand, on June 30, 1904, I do find under that date Imperial Japanese Government 6% Sterling loan, \$1,574,812, amount received less interest \$1,574,812, and the name of the purchaser left blank. Who was the purchaser? A. I will look that up.

Q. You find it necessary to look that up? A. Yes.

Q. I find following the sales that on November 17, 1904, there were sold of Japanese 6's \$233,760, for \$218,864, to Alexander & Thomas; \$20,454 for \$19,151 to the same; \$6,818 for \$6,382 to the same; and \$1,112,308 for \$1,041,241 to Kuhn, Loeb & Company. Those are the 6's which were acquired under the purchases we have just mentioned? A. Well, presumably, yes. They would say second series if they were the others.

Q. Then on December 5, 1904, \$170,000 of them were sold at \$131,427 to the Mercantile Trust Company? A. Yes.

Q. So that the holdings of the Equitable acquired through the purchases that have been named were apparently closed out by sales before the end of the year? A. Yes.

MR. HUGHES: I am ready to suspend.

THE CHAIRMAN: The Committee has found a three days' session so satisfactory both to the counsel and itself, that, espe-



*Testimony of Henry Rogers Winthrop*

cially on that account and because the Board of Aldermen are to meet here next Tuesday, they will hold a three days' session only next week; and if it seems, as appears now, that time can really be saved by curtailing the public sessions to three days a week instead of taking the whole four, that will be adopted as the course instead of four days.

The Committee now stands adjourned until next Wednesday morning at 10.30 A.M.



ALDERMANIC CHAMBER,  
CITY HALL, NEW YORK CITY.

September 27, 1905.

The Committee met pursuant to adjournment.

Senator Armstrong in the chair.

THE CHAIRMAN: Gentlemen, this Committee meets this morning under most distressing circumstances. The Speaker of the Assembly of the State, Mr. Nixon, beloved of us all, is lying critically ill at his home in Westfield. Our best information this morning leads us to fear that he will not recover. If such unhappy event should occur the Committee will instantly adjourn, and as we are in communication with his home we may receive unfavorable news from there at any time. Until we hear better news, as we hope, or worse, if it must be, we will proceed.

GEORGE C. VAN TUYL, JR., called as a witness, being duly sworn, testifies as follows:

BY MR. HUGHES:

Q. What is your occupation, Mr. Van Tuyl? A. I am secretary and treasurer of the Albany Trust Company.

Q. How long have you been such? A. Since the 20th day of March, 1900.

Q. You have been asked to produce a transcript of the ac-

*Testimony of George C. Van Tuyl, Jr.*

count of Andrew Hamilton with the Albany Trust Company. Have you produced it? A. I have, sir.

Q. Is this the paper? A. It is.

Q. Is that a complete and correct transcript of that account as it appears on the books of the Albany Trust Company? A. It is.

Q. When was the account opened? A. February 21, 1905.

Q. The items on the left-hand side of the account are items of drafts and the items on the right-hand side of the account are items of credits or deposits? A. The items on the left-hand side are items of deposit, and the items on the right-hand side are items of drafts.

Q. Do you mean that? A. I do not. I beg your pardon, sir. Excuse me.

Q. The items on the left-hand side are items of drafts or checks drawn against the account, and the items on the right-hand side are deposits to the credit of the account? A. Yes, sir.

Q. Has the bank any record of the items of deposit or the items of checks other than as appear here? A. They have none.

Q. Do you yourself know anything about these items of drafts upon this account? A. I do not.

Q. To whom were they paid or for what purpose? A. I do not know.

Q. Is there anything on the books of the bank which would show, or on memoranda or tickets kept by the bank which would show, which of these checks had been cashed? A. No, sir.

Q. The teller's check shows that, doesn't it? A. The teller's sheet would show an amount, but not whose check was cashed.

Q. No, but it would show whether or not a check was cashed? A. Of these amounts.

Q. Or whether it was drawn to order and passed through another bank? A. Oh, yes.

*Testimony of Henry Rogers Winthrop*

Q. Have you any knowledge or information about this account other than appears upon this sheet? A. I have not.

MR. HUGHES: That is all. I will have this marked for identification.

(Marked Exhibit 160 for identification.)

HENRY ROGERS WINTHROP, recalled, testifies as follows:

BY MR. HUGHES:

Q. Have you made, Mr. Winthrop, a further examination of the matters which were the subject of our inquiry on Friday last, since the adjournment? A. Yes, sir, and while we found that what had been prepared beforehand was in the main correct, we were able, by further investigation and assistance from the bankers and trust companies mentioned, to get a good deal more data which we have now prepared.

Q. You have furnished me a list of syndicates and of managers. The transactions mentioned on this list are in the same order as those on the syndicate sheet Exhibit 157 for identification? A. Yes, sir; numbered the same way.

MR. HUGHES: Mark that for identification.

(Marked Exhibit 161 for identification.)

Q. The first of these is syndicate account Union Pacific Railway bonds, Managers Kuhn, Loeb & Company. You have produced a statement recording those which I understand has been obtained from your examination of the records of the companies? A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. And other sources of information available to you? A. Yes, sir.

MR. HUGHES: I will read it upon the record:

**"UNION PACIFIC REORGANIZATION SYNDICATE.**

**"Managers, Kuhn, Loeb & Company.**

"General Fitzgerald received from the managers a participation of \$1,500,000, and allotted to the Equitable \$750,000.

"The following amounts were called:

|                                   | Par.    | Cost.   |
|-----------------------------------|---------|---------|
| "Nov. 11, 1895, for expenses..... | .....   | 7,500   |
| "Dec. 26, 1895, 10% payment.....  | 75,000  | 75,000  |
| "Jan. 6, 1896, 10% payment.....   | 75,000  | 75,000  |
| "Nov. 18, 1897, 80% payment.....  | 600,000 | 600,000 |

"The following amounts were returned, with 6 per cent. interest:

|                                            |         |         |
|--------------------------------------------|---------|---------|
| "Dec. 3, '97, 1% for expenses ret'd.....   | .....   | 7,500   |
| "Dec. 3, '97, 50% of subscription ret'd... | 375,000 | 375,000 |
| "Feb. 3, '96, 50% of subscription ret'd... | 375,000 | 375,000 |

"The Society also received 3,750 shares of Union Pacific Preferred stock, being compensation to which the participants in the original reorganization syndicate were entitled."

Q. Are you able to state who were associated with General Fitzgerald in that transaction? A. No, sir.

Q. Apart I mean from the Equitable? A. No, sir.

Q. Did the Equitable pay the entire amount that was called for on the participation of \$1,500,000 which General Fitzgerald received, or only upon its share of \$750,000? A. Only on its share of \$750,000.

*Testimony of Henry Rogers Winthrop*

Q. Are you able to state what profits were received from this syndicate? A. There were no profits in cash. The profits consisted of some shares of Union Pacific Preferred stock.

Q. Were there any profits in cash distributed by the syndicate managers so far as you are able to ascertain? A. I believe not.

Q. So, according to your information, General Fitzgerald and the others in the syndicate simply got shares of stock as their part of the profits? A. Yes, sir.

Q. And the society also received its shares of stock? A. Yes, sir.

Q. These 3,750 shares are the portion of the profits which the society was entitled to on its participation? A. Yes, sir.

Q. How were those shares booked by the Equitable? Were they entered upon the security register? A. Yes, sir; entered upon our books; yes, sir.

Q. In regular course? A. In regular course.

Q. And their participation appeared to have been accounted for? A. Yes, sir; entirely.

Q. Now, in the statement that was made on Friday from this syndicate list, Exhibit 157, for identification, it was said that \$750,000 allotment had been received by the society from the Mercantile Trust Company. Was that accurate? A. That statement was made in that way because the vouchers showed that the checks were drawn to the order of the Mercantile Trust Company.

Q. What checks do you refer to? A. The checks for the amounts called by the syndicate managers under the various calls, one per cent., and so forth.

Q. Have you the vouchers relating to that matter? A. Yes, sir.

Q. You produce voucher as follows:  
"Equitable Life Assurance Society of the United States:

"Please draw check to the order of the Mercantile Trust Com-

*Testimony of Henry Rogers Winthrop*

pany for Seventy-Five Hundred Dollars, being our share of one per cent. of the expense of reorganization of the Union Pacific Railroad Company. Seventy-five hundred dollars paid November 11, 1895.

"M. Murray, Cashier.

"Purchase authorized by the Committee on Finance.

"George H. Squire, Chairman.

"Approved: Thomas D. Jordan, Comptroller.

"New York, November 9, 1895."

Q. Mr. George H. Squire was at that time the treasurer of the Mercantile Trust Company and secretary of the sub-committee on finance of the Equitable Assurance Society? A. Yes.

Q. And at or about the time of this payment of \$7,500 for expenses Mr. Squire requested by letter the Equitable Life Assurance Society to pay to the order of the Mercantile Trust Company the amount of \$7,500 A. Yes, sir.

Q. Then on December 26, 1895, further payment was made by the Equitable Society of \$75,000 and the voucher that you now produce shows that that was for \$75,000 par value of Union Pacific subscription purchased of the Mercantile Trust Company? A. Yes, sir. Where our vouchers show purchases it means that that is to whom the check was drawn.

Q. And that payment was authorized by the Committee on Finance under the signature of Louis Fitzgerald, Chairman, the voucher is approved by T. D. Jordan, Comptroller? A. Yes.

Q. The same course is taken with the next payment of \$75,000 save that the voucher is signed by George H. Squire, Treasurer, and approved by T. D. Jordan, Comptroller? A. Yes.

Q. Then the final payment on November 9, 1897, was pursuant to the letter which you now produce? A. Yes, sir, approximately.



*Testimony of Henry Rogers Winthrop*

Q. The voucher being signed by George H. Squire, Secretary, and approved by George T. Wilson, Fourth Vice-President A. Yes, sir. The second signature is nearly always nothing but a countersigning, any officer can sign it.

Q. So far as you are able to learn did the Mercantile Trust Company in any way participate in this syndicate? A. I don't know. We have not shown their participation here.

MR. HUGHES: I offer in evidence the letter by George H. Squire, Treasurer, to General Louis Fitzgerald, Chairman, under date of November 9, 1897, and will read it upon the record.

MR. HUGHES read Exhibit No. 162.

Q. General Louis Fitzgerald was at that time chairman of the Executive Committee? A. No.

Q. What was he chairman of? A. Finance Committee at that time.

MR. CRAVATH: Both.

THE WITNESS: Both, was he?

Q. That is of the Equitable Life Assurance Society? A. Yes, I am informed he was.

Q. Then I understand Mr. Squire is treasurer of the Mercantile Trust Company, having written to Mr. Fitzgerald for a payment by the Equitable Life Assurance Society of \$600,000 on this participation, then signed the voucher for the payment as an officer of the Equitable Life Assurance Society, that is, for the payment of the \$600,000? A. As the secretary of a committee. He was not one of the officers.

Q. Yes, as secretary of the committee. Of course, this is a

*Testimony of Henry Rogers Winthrop*

minute of an actual transaction by the committee? A. Apparently, yes, sir.

Q. Those are all the records on that transaction? A. Yes.

Q. I might ask you, before we leave this, if you have made inquiries from Kuhn, Loeb & Company to ascertain whether any cash profits were divided among the members of the syndicate? A. I have, and they have not, the profit were stock.

Q. Five per cent. of the subscription allotted in stock? A. 50 per cent. allotted in par.

Q. In par, yes, but in number of shares five per cent.? A. Yes.

Q. And whoever held the remaining \$750,000 of the total participation of \$1,500,000 which General Fitzgerald has received, also according to your information received 3,750 shares of Union Pacific preferred stock? A. Yes.

Q. And the second syndicate is St. Louis & San Francisco Underwriting syndicate. So far as the participation of the Equitable of \$100,000 and the receipt of it from the Mercantile Trust Company, and the names of the managers of the syndicate and the payment of \$18,000 on April 30, 1896, upon account of the subscription which was returned August 29, 1896, the statements made on Friday appear to be correct? A. Yes, sir.

Q. In addition to that, however, have you found that there were any profits realized or paid upon the shares of the Equitable Life Assurance Society in that syndicate? A. I am informed that on August 29, 1896, a check was drawn to the order of the society for \$23,919.44. Now, we are trying to find to what account that credit was booked.

Q. Who has informed you that that check was drawn to the order of the society? A. The Mercantile Trust Company.

Q. Have you been able to find any entry of the receipt of that in any book of the society? A. The expert accountants that are

*Testimony of Henry Rogers Winthrop*

now employed are looking that up and we hope to have that for you to-day.

Q. Whose check was it? A. The Mercantile Trust Company's check.

Q. Mercantile Trust Company check? A. Yes.

Q. And they have the check? A. Yes.

Q. Was it endorsed by anyone? A. I have not seen it.

Q. Have you made any inquiries of the syndicate managers as to what payments were made on account of profits to the various participants? A. That is in progress.

Q. No settlement report upon that? A. Not as yet.

Q. And you will not get trace of any payment of profits to the Equitable other than in this check? A. No, sir.

Q. Have you any vouchers or papers relating to that syndicate? A. Yes.

Q. The basis of your information that the society had \$100,000 participation in that syndicate is a letter from Mr. Squires, as treasurer of the Mercantile Trust Company, to General Louis Fitzgerald, the chairman of the Executive Committee or Finance Committee of the Equitable Life Assurance Society, under date of April 20, 1896? A. Yes.

Q. Stating "We beg leave to advise you that in compliance with your request we have subscribed for account of the society for \$100,000 in the St. Louis & San Francisco reorganization syndicate." A. Yes.

Q. And the voucher for the payment of \$18,000 is signed by George H. Squire as secretary as to the authorization of the Committee on Finance, with the approval of T. D. Jordan, comptroller? A. Yes.

Q. Have you any further information as to that syndicate? A. No, sir.

Q. The next syndicate is Northern Pacific syndicate? A. Yes.

*Testimony of Henry Rogers Winthrop*

Q. The details which you now furnish me as to this are exactly the same as appear upon Exhibit 157 for identification produced on Friday, save that at that time you did not have the amount of the Equitable's participation? A. Yes.

Q. And that amount is how much? A. \$500,000.

Q. And that was received from the Mercantile Trust Company? A. Yes.

Q. Have you been able to ascertain how much the total participation was allotted to the Mercantile Trust Company? A. We will have that information shortly.

Q. The profits received were how much? A. It amounted in the long run to \$41,362.51.

Q. How was it received, in cash or shares? A. It was received in shares of the Northern Pacific and bonds.

Q. Are those accounted for upon the books? A. Yes, sir.

Q. Have you taken steps to ascertain whether the amount of profits distributable to the Equitable Life Assurance Society correspond with the amount which was actually received by the society? A. We have.

Q. And what is the result? A. We have not as yet got the answer.

Q. Have you any information which would lead you to suppose that the profits are not fully accounted for? A. No, sir, we believe they are. Here is the first one, Mr. Hughes.

Q. These vouchers you produce for the payments mentioned on Exhibit 157 for identification are in the usual form? A. Yes.

Q. Signed by Mr. Squire and Mr. Jordan as secretary of the Finance Committee and the comptroller, respectively? A. Yes.

Q. And that is all the information you have on that syndicate? A. Yes.

Q. The fourth one, St. Louis & Iron Mountain Railway second mortgage 5's, have you any further information regarding that? A. It is all the same except at the end.

*Testimony of Henry Rogers Winthrop*

Q. In this case you were not clear on Friday as to the total participation of the Mercantile Trust Company. You now know it is \$1,500,000 according to this statement? A. Yes.

Q. How much was received by the society? A. The society received the entire participation of \$1,500,000.

Q. And the society paid them \$550,000 on calls that were made and that amount was afterward transferred to bond account? A. The society withdrew their bonds.

Q. You were unable to state on Friday the amount of the profits that were received. Can you now state? A. On April 30, 1897, the Mercantile Trust Company sent a check for \$21,906.50 and on August 26, 1897, \$22,695.79. We are now looking up to see what accounts these checks were credited to.

Q. Have you been able to find any entry of the receipt of the money which is represented in these checks upon your books, that is, of the Equitable Life Assurance Society? They are not entered in the books of the syndicate, but they may have been entered upon some other account which we are having looked up.

Q. Have you looked in the entries of deposits made by the Equitable Life in its various bank accounts to ascertain whether those amounts went to the credit of the Equitable Life Assurance Society? A. That is being done this morning.

Q. You have not any information at present upon it? A. No, sir.

Q. Whose checks were those, Mercantile Trust Company checks? A. I believe they were.

Q. Were they drawn to the order of the society? A. They were.

Q. Do you know how they were endorsed? A. No, sir, I have not seen them.

Q. Have you the vouchers and correspondence relating to that? A. Yes.

*Testimony of Henry Rogers Winthrop*

Q. Vouchers for the payments on these syndicates were in the usual form and signed by General Fitzgerald as chairman, and Thomas D. Jordan as comptroller? A. Yes.

Q. Now, the next one is New York Central & Hudson River refunding syndicate? A. There is no change in this from the previous exhibit.

Q. That is, the evidence you gave upon Friday is complete upon that point? A. Yes, sir; the syndicate is still open.

Q. Have any profits been distributed upon that to any members of the syndicate? A. No profits. Various calls have been made and parts of those calls have been returned, but it is still an open syndicate.

Q. The Equitable took that directly from the syndicate managers? A. The syndicate managers; \$2,000,000.

Q. No person was connected with the Equitable in that participation? A. No, sir.

Q. Have you the papers upon that point? A. Yes, sir (producing same).

Q. Have any cash profits been distributed yet by the syndicate managers? A. No profits, no. Money——

Q. Simply returns of moneys that have been paid? A. Returns of moneys that have been paid, yes.

Q. You have information on that from the syndicate managers, have you not? A. Yes, sir.

Q. In this case the calls came direct from J. P. Morgan & Company, the syndicate managers, addressed to the Equitable Life Assurance Society? A. Yes, sir.

Q. And there was a resolution of the Executive Committee apparently here, dated May 19th—they are not arranged chronologically, are they, these various transactions? A. They are arranged chronologically from the various points where they appear on our books.

Q. This was done in 1895? A. Yes, sir, but it started on

*Testimony of Henry Rogers Winthrop*

August 1, 1896. Excuse me, it started on December 15, 1902, apparently.

Q. Well, my attention was attracted to a memorandum of a resolution of May 19, 1895? A. But, Mr. Hughes, we signed the agreement on April 21, 1897.

Q. Yes. I have here the syndicate agreement. Are there any resolutions prior to May, 1905, relative to the matter? A. They are not read on the minutes.

Q. And in regard to these other syndicate transactions that I have asked you about, do the minutes show any action taken in regard to them? A. No; not in detail; just the formal minutes.

Q. Yes, but the minutes don't show any action taken regarding those minutes? A. No, sir.

Q. The next one is Chicago, Rock Island & Pacific 4's, Speyer & Company? A. Yes (witness producing paper).

Q. You were unable to state on Friday the extent of the society's participation. What do you find it to be? A. \$750,000 direct from the managers.

Q. No one connected with the Equitable in that participation? A. No, sir.

Q. You have the vouchers for the payments which were made as shown in Exhibit 157? A. Yes, sir.

Q. And the bonds were withdrawn for investment which the society received? A. Yes, sir.

Q. Do you find any statement of profits realized? A. I don't believe we were entitled to any.

Q. Why do you say that? A. Because we withdrew the bonds.

Q. Have you made any inquiries of the syndicate managers in regard to that? A. We have asked for a statement with regard to all these matters from Speyer & Company.

Q. Your present information is that you were not entitled to

*Testimony of Henry Rogers Winthrop*

profits and none have been received by any person on your behalf? A. Yes, sir.

Q. Is there nay further information on that matter. A. No, sir.

Q. The next one is New York City  $3\frac{1}{2}$  per cent. stock syndicate? A. (Witness produces paper.)

Q. What was this transaction? A. It appears from the vouchers that the society, through the New York Produce Exchange Trust Company, bid for one million New York City  $3\frac{1}{2}$ , half a million to be Water bonds and half a million East River Bridge bonds.

Q. And payments were made? A. Payments were made on account. A check was drawn to the order of the City Chamberlain and later we paid a check to the order of the Produce Exchange Trust Company for \$20,000, being 2 per cent. of the par value of the bonds bid for, and later a check for \$2,023, drawn to the order of the trust company, being the society's pro rata share of the expenses connected with the bidding litigation.

Q. There was litigation over that, I believe? A. Yes, sir.

Q. The Equitable got the bonds? A. Yes, sir.

Q. They went on their books? A. Yes, sir.

Q. Regularly? A. Yes, sir.

Q. And none of the officers of the Equitable, or persons on its Board, had any connection with that transaction further than to take an action of authorization or approval? A. Yes, sir.

Q. The next is Central Pacific Refunding syndicate, Speyer & Company? A. (Witness produces statement.)

Q. In this case the amount of the participation you had stated on Friday in this sheet was \$500,000. What should it be? A. \$250,000.

Q. From whom was it received? A. Speyer & Company.

Q. Directly? A. We received it directly.

Q. How did you happen to put it down at \$500,000 originally?



*Testimony of Henry Rogers Winthrop*

A. Because the books show that a ten per cent. call had been made, but by looking up the vouchers we found that there was a twenty per cent. call, twenty per cent. of \$250,000, being equal to \$50,000.

Q. But as a matter of fact the call was a twenty per cent. call? A. It was a twenty per cent. call.

Q. Now, were any profits received on that syndicate transaction? A. On December 15, 1899, Speyer & Company sent to the society a check for \$14,074.89 profits. We are unable to trace to what account this credit was booked.

Q. Have you seen that check? A. Yes, sir.

Q. Have you looked to see, or has anyone in the society looked to see if it was banked to the credit of the Equitable Life, or was deposited to the credit of the Equitable Life? A. It is endorsed.

Q. Yes, but you have entries showing deposits to the credit of the society? A. The accountants are looking that up this morning.

Q. They have so far been unable to find any trace of that? Or have not completed it? A. They were not asked to do it until late last night. The information did not come in until about half-past three.

Q. And so they are trying to get hold of that. Have you made inquiries of Speyer & Company to ascertain what amount of profits were paid to the society on this transaction? A. That check was the entire amount of profits which we were entitled to.

Q. You have satisfied yourself on that point? A. We have Speyer & Company's letter to that effect.

Q. The check was to the order of the society? A. Yes, sir.

Q. And endorsed by whom? A. T. D. Jordan, Comptroller.

Q. You show me the letter of Speyer & Company dated December 15, 1899, stating that the share of the society in the profits was \$14,074.89, for which they enclosed check? A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. And the other matters relate to the payment on the call?  
A. Yes, sir, showing that our participation was \$250,000.

Q. I see. And a copy of the syndicate agreement. A. Yes, sir.

Q. The next syndicate is Cleveland, Canton & Southern. A. Well, this should not have appeared on our syndicate lists. This is nothing more nor less than a loan made by the Mercantile Trust Company to the managers of this syndicate and the Equitable took one million participation in the loan.

Q. Well, you mean that the Equitable became a party to the joint loan? A. To a joint loan.

Q. That is, it put up one million dollars of the one million five hundred thousand? A. Yes, sir.

Q. And that loan was represented by notes made by the borrowers, managers of this syndicate? A. And the society held as collateral \$1,000,000 Wheeling and Lake Erie 5's.

Q. And the loan was repaid with interest? A. The loan was repaid with interest.

Q. And there were no profits there to the Equitable or to the Mercantile in that transaction? A. No, sir; just the interest.

Q. The next is Southern Pacific 2-5 year four per cent. bonds. (Witness produces statement.) This was a case where the participation of \$250,000 received by the Equitable was received from George H. Squire and associates. Have you been able to ascertain who George H. Squire and associates were? A. Well, it eventually got on our books direct.

Q. Will you explain what you mean by that? A. Speyer & Company write a letter in which they state that "We ceded to you and your associates—we now understand that the same has been distributed as follows: Equitable Life Assurance Society \$250,000; Western National Bank, \$50,000; J. W. Alexander, \$50,000; George H. Squire, \$50,000; total, \$400,000."

Q. Will you allow me to see that letter, please? (Letter

*Testimony of Henry Rogers Winthrop*

handed Mr. Hughes.) That is under date of November 16, 1900? A. Yes, sir.

MR. HUGHES: I offer that letter in evidence.

(Marked Exhibit 163 and read by Mr. Hughes.)

Q. There is some earlier correspondence in regard to this matter. I find a letter here November 13, 1900? A. Yes, sir.

Q. That is from the files of your society? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 164 and read by Mr. Hughes.)

Q. Also a letter of November 15, 1900, of which you produce a copy from the files of the society? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 165 and read by Mr. Hughes.)

Q. The transaction culminated in a profit in 1901, did it not? A. Yes, sir.

Q. And the letter which you now show me is from Speyer & Company to the society direct, enclosing a check for \$11,931.85, their share of the profits? A. Yes, sir.

Q. That was the share of the profits on the interest of \$250,000? A. Yes, sir.

Q. Do you know what bonds the society bought of that issue? A. I haven't looked that up, Mr. Hughes. A pencil memorandum I have here says "No bonds were taken from the syndicate," although we may have purchased others.

*Testimony of Henry Rogers Winthrop*

Q. No bonds were taken from the syndicate? A. No, sir.

Q. I find under date of February 5 and 6, 1901, a reference to purchase of Southern Pacific 4's. Is that the same issue? Those are 4½'s? A. Those are 2-5 year 4½'s.

Q. Not they? A. No, sir.

Q. Have you got the syndicate agreement with you that would identify that? A. Isn't that with the Speyer letter? I think they are all together.

Q. Yes, it says 4½'s. They are not the same? A. No, sir.

Q. Apparently the society bought none of those bonds? A. No, sir.

Q. And furnished none of the profits that were divided? A. Yes, sir; that is right.

Q. The next syndicate is Pennsylvania Coal purchase syndicate, managers J. P. Morgan & Company. You have already stated that a participation of \$750,000 was received from General Fitzgerald and others. Have you a statement of the persons composing General Fitzgerald and others? A. Yes, sir.

Q. Will you allow me to see it, please? (Produced by witness.)

Q. You present me with this statement of the participants in the Pennsylvania coal purchase syndicate taken from the files of your company? A. I don't know where it is from, no, sir. I am informed that these are old memoranda which were filed away somewhere.

Q. In the archives of the Society? A. In the archives of the Society.

MR. HUGHES: Well, I offer this statement in evidence.

(Marked Exhibit 166.)

Q. This apparently states the names of the participants, the

*Testimony of Henry Rogers Winthrop*

amounts of the participations aggregating \$2,000,000, the amount of bonds which they were called upon to take under their subscription which is stated in pencil at the left-hand before the names of the subscribers, and the amount which they were to pay in the first payment at the rate of \$925 for a \$1,000 bond as provided for in the agreement which is in the final column? A. Yes, sir.

MR. HUGHES: I will read it. (Reads Exhibit No. 166.)

Q. It appears that these were the amounts called for as the first payment—that is, the final amounts I read aggregating \$1,110,000 January 15th, 1901. From another memorandum that you handed me it appears that the second payment was called for February 1st, 1901, from these various participants, the total paid being \$55,500. That is correct, is it not? A. Yes, sir.

Q. I find here a letter addressed to General Louis Fitzgerald under date of January 18th, 1901, from J. P. Morgan & Company. You produce that from the files of the Society? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 167 and read by Mr. Hughes.)

Q. The \$2,000,000 there referred to was the entire amount of all the participations that I have read? A. Yes.

Q. And the \$500,000 of the bonds were \$500,000 which could be withdrawn under clause 8 of the syndicate agreement, providing as follows: "J. P. Morgan & Company shall make a public offer of the bonds delivered, for which shall become deliverable to the syndicate hereunder, and which shall not have been withdrawn from sale as herein provided. Such offer shall be made at such prices (not less, however, than 92½ per cent and accrued interest

*Testimony of Henry Rogers Winthrop*

on the bonds), and on such basis as by the syndicate managers shall be deemed best. Subscribers desiring to withdraw their bonds from sale hereunder may do so after notice in writing delivered to the syndicate managers on or before January 15th, 1901, specifying the amount of bonds to be withdrawn and agreeing not to sell or to offer to sell the same until notified by the syndicate managers that all bonds not so withdrawn have been so disposed of." Under that the Equitable Life withdrew \$500,000 of those bonds? A. Yes, sir.

Q. Do these appear in your security register? A. Yes, sir. They were entitled to withdraw \$750,000 and they withdrew \$500,000; on their participation they were entitled to withdraw \$750,000.

Q. On their participation they were entitled to withdraw \$750,000 and they withdrew \$500,000. At what price were they withdrawn? A. At 94.

Q. The Equitable on that transaction paid into the syndicate a total of \$624,375. Those were calls upon its share of the total participation? A. Yes, sir.

Q. That is the total participation of General Fitzgerald and associates amounting to \$2,000,000? A. It was on its share of \$750,000.

Q. Its share and not upon the others? A. Yes, sir.

Q. And according to the information you have here, all the other participations belonging to General Fitzgerald and associates paid in their shares? A. Paid in their own money.

Q. What entry have you of the receipt of profits on that transaction? A. On January 23, 1902, the Society received as commission 750 shares of Erie First Preferred stock.

Q. Has it received any cash profits? A. No. The profits of that syndicate were paid in Erie First Preferred.

Q. And not any in cash? A. No, sir.

*Testimony of Henry Rogers Winthrop*

Q. Those shares of 750 Erie First preferred went on the company's books in the regular way? A. Yes, sir.

Q. And were duly accounted for? A. Yes, sir.

Q. Did the Society purchase any of these bonds from the syndicate managers? A. I believe not.

Q. Did it purchase any of them in the market? A. The only ones we have on our books were the 500 that we withdrew.

Q. And that is all the information you had regarding that transaction? A. Yes, sir.

Q. You did not show me the vouchers. Have you got them there? A. Yes, sir. (Producing papers.)

Q. The vouchers for the payments in the Pennsylvania Coal syndicate were signed by George H. Squire with the approval of S. W. Alexander, secretary, in one case, and G. T. Wilson, third vice-president, in the other case? A. Yes.

Q. And the payments were made to the Mercantile Trust Company? A. Yes.

Q. You might explain that on the record, with regard to the names of the officers that appear upon the vouchers as approving these payments from time to time. What is the practice of the Society in that regard? A. The security department, on information received from the financial manager, would make out the voucher calling for the payment. That would be signed by the financial manager and would then go to any one of the executive officers, who would just sign as a counter signature so that the cashier would have two signatures on the authorization of the drawing of the check.

Q. The next is Union Pacific Convertible bonds syndicate, Kuhn, Loeb & Co. managers. It appeared that \$500,000 participation had been received by the Equitable Society from the Mercantile Trust Company. On the statement that you now hand me it is said that the Mercantile Trust Company had a total participation of \$5,000,000. A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. Do you know who the others were who received allotments from that total? A. No, sir.

Q. How does it appear that the Society had an interest of \$500,000? A. A letter from the Mercantile Trust Company to the Society, calling for a 50 per cent. payment, on which it says: "Your proportionate share is \$250,000."

Q. That is a letter under date of February 21, 1901? A. Yes.

Q. The result was a check sent for the amount desired? A. Yes, sir.

Q. Have you the voucher here? A. Yes, the voucher is here (handing paper).

Q. Oh, yes, signed by George H. Squire, approved Thomas D. Jordan, Comptroller? A. Yes.

Q. Have you any papers or memoranda further in regard to that matter? A. No, sir.

Q. What profits were made upon that transaction? A. To the credit of George H. Squire, trustee, an entry was made, profits, Union Pacific Convertible bonds syndicate, of \$16,402.

Q. What do you mean by an entry to the credit of George H. Squire, trustee? A. There seems to have been an account in that form in the American Deposit & Loan Company, now the Equitable Trust Company, entitled the George H. Squire, trustee account, to which various Equitable checks have been deposited.

Q. Then the \$16,402 went to the credit of George H. Squire, trustee, in that account? A. Yes.

Q. Are those all the profits that were made from this syndicate? A. All; yes, sir.

Q. You have inquired of the syndicate managers as to that? A. I think my information came from the Mercantile Trust Company.

Q. That that was the entire share of their profits? A. That that was the entire share.



*Testimony of Henry Rogers Winthrop*

Q. You have had no statement from the syndicate managers in regard to that? A. No, sir; not yet.

Q. We will return in a moment to the account of George H. Squire, trustee, but in the meantime will take up the Railroad Securities Company's 3½ Gold bonds syndicate. In this case the Society's participation amounts to \$500,000, and was received direct from the syndicate managers? A. Yes, sir.

Q. And the Society made the payments directly and got its money back and received the profits? A. Yes, sir.

Q. Of \$17,500? A. Yes.

Q. It had purchased in the meantime a million dollars of the bonds and it used that profit, according to your statement, to reduce the cost of the bonds? A. Yes.

Q. Bought on May 12, 1902, at 92 and interest? A. Yes.

Q. Do you find any trace of any persons being interested, that is, of any officers of the Equitable being interested at all in this syndicate? A. No, sir. Some other companies were interested with the Equitable but not in our participation.

Q. Have you any statement there with regard to that? A. I think this memorandum would show——

Q. You produce a memorandum showing that, under date of February 7, 1901, a participation was given to the Equitable of \$500,000, to the Mercantile Trust Company \$200,000, to the Western National Bank \$100,000, the Franklin National Bank \$100,000, the Commercial Trust Company \$100,000, making a total of one million? A. Yes, sir.

Q. You find no individual participant? A. No.

Q. And the transactions as to the Equitable participation were direct between the Equitable and the syndicate managers? A. Yes, sir.

Q. Payments made by check to Kuhn, Loeb & Co.? A. Yes.

Q. And not through other individuals? A. No, sir.

Q. I notice in this letter of March 19, 1901, from Kuhn, Loeb

*Testimony of Henry Rogers Winthrop*

& Co. to the Society, which you produce, a statement as follows: "On account of your syndicate interest there are due you \$500,000 bonds at 90 per cent. and interest, less 2 per cent. commission, for which please hand us check for \$444,180.56 on the 27th inst. These bonds are to be held subject to our order as stated in our above-mentioned letter," referring to a letter of February 7, 1901. Have you the letter referred to?

(Paper produced by the witness.)

Q. In this letter of February 7, 1901, addressed to the Equitable Life Assurance Society by Kuhn, Loeb & Co., relating to this syndicate, I find the following statement: "We have reserved for you a participation of \$500,000 in the above purchase. We shall charge  $\frac{1}{2}$  per cent. commission for our services, the bonds to remain syndicated under our control." What do you understand to be the meaning of the expression "the bonds to remain syndicated under our control?" A. We paid our proportionate share of the call and received receipt from the syndicate managers of bonds, but if at any time they were able to sell those in the market we were obliged to give them up and receive in return the money advanced back and then later we would be entitled to our proportionate share of the profits.

Q. That is, you were not entitled to withdraw the bonds for investment at the syndicate price? A. No, sir.

Q. But were bound to pay up the money as called for according to your subscription, the bonds to remain under the control of the syndicate managers until the public flotation was completed, and they returned to you the amount that was called and any share of the profits to which you were entitled? A. Yes.

Q. And then if the Society desired to get any bonds it would have to go into the market and buy them? A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. Either from the syndicate managers or the persons to whom the managers sold them? A. Yes.

Q. That is a frequent practice in connection with these syndicates, is it not? A. Yes.

Q. And when these payments were returned or the amounts of the payments were returned, the Equitable surrendered its receipts, relinquished its receipts to the bonds represented by the receipts and the managers sold the bonds upon the market, and accounted to the Equitable for its share of the profits of such sale? A. Yes, sir.

MR. HUGHES: Is there any other agreement but that letter in that case?

Papers produced.

MR. HUGHES: Is this the syndicate agreement?

MR. CRAVATH: Yes.

Q. Do you know what the Railroad Securities Company was? A. A company organized for the holding of Illinois Central Railroad stock.

Q. The sole security for the bonds for the Railroad Securities Company was stock of the Illinois Central which the Railroad Securities Company had acquired? A. Yes, sir.

Q. The Railroad Securities Company was a holding company? A. Apparently.

Q. And acquired 77,000 shares of capital stock of the Illinois Central Railroad and then issued bonds against the shares acquired, and Kuhn, Loeb & Co., as syndicate managers, undertook the sale of the bonds to various members of the syndicate underwriting the transaction? A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. Now, the next transaction is Rio Grande Western, First Consolidated 4's. The managers were Kuhn, Loeb & Co. and the Equitable received a participation direct therefrom? A. Yes.

Q. In the same way calls were made from time to time upon the Society and receipts issued for bonds. Is that right? A. Yes.

Q. With the understanding that the bonds receipted for were to be held under the control of the syndicate managers until the transaction was completed? A. Yes, sir.

Q. And subsequently the receipts were delivered up and the payments returned and the profits realized on the sale by the syndicate managers? A. A profit to the Society of \$7,931.80, which was used to reduce the cost of the bonds purchased.

Q. And the bonds were purchased from Kuhn, Loeb & Co. in the market? A. The records will show that. They may have been purchased from some outside dealer.

Q. Now, here are \$500,000 of them on June 4th from Kuhn, Loeb & Co.? A. Yes, then they were purchased.

Q. At \$472,500. Is that payment on account of any subscription, or is that a purchase from the syndicate managers of the bonds in the market? A. These sheets here have nothing to do with syndicates. They only show the purchase and sale of actual securities.

Q. So that that I now refer to is an actual purchase from the managers? A. Yes.

Q. And at the price at which they were offered to the public? A. Yes.

Q. Do you know what persons connected with the Equitable Life Assurance Society were interested in that syndicate? A. No, sir.

Q. Now, to recur to the one we had a moment ago, the Railroad Securities Company, in that case the Equitable Assurance

*Testimony of Henry Rogers Winthrop*

Society bought largely in the market, did it not? A. I don't think it bought very largely.

Q. Well, "as large as a piece of chalk" is something indefinite. Railroad Securities Company, May, 1901, the time when these were bought and put upon the market apparently, or about that time—they bought \$500,000 from whom? A. We bought one million altogether?

Q. I see, you bought one million altogether? A. Yes, some in—.

Q. Well, there is one lot on May 15th. A. That is a mistake, that should be 1902.

Q. There is another one in 1902, I think. A. On the same date?

Q. We need not stop on that particularly now. A. There is the other one. The others were not bought from Kuhn, Loeb & Company.

Q. So it appears there was a purchase in May, 1901, of \$500,000 of these in the market? A. I can tell you what that is that has gone in, that is the purchase here of the syndicate call.

Q. So you do have syndicate calls in this list? A. Well, I will admit that they were, yes. I am informed that all syndicate calls do go in here.

Q. Now, the syndicate call was at 88 and interest? A. Yes.

Q. And the society bought in the market one million of those bonds at 94? A. Yes.

Q. And bought them from the syndicate managers? A. Yes, from Kuhn, Loeb & Company.

Q. In that case you do not know who were in the syndicate, that is, who were officers or directors of the Equitable Life? A. No, sir.

Q. Now, have I got all the information you possess regarding that transaction? A. Yes.

Q. Now, the next one, Union Pacific Reorganization Pur-

*Testimony of Henry Rogers Winthrop*

chase Money Syndicate——. A. Well, that is the one I made a note of, that we are not quite ready on that.

Q. All right, we will omit that for the present. The next is Pittsburg and Toledo syndicate. Have you a statement of the interests of the various parties in that syndicate? A. Well, the Equitable—the Mercantile Trust Company subscribed for a participation of \$2,900,000.

Q. That was in March, 1901? A. Yes.

Q. And the Equitable received a participation of that, or \$450,000. Who got the residue? A. I don't know.

Q. Do you know what General Fitzgerald's relation to that transaction was? I see his name as one of the managers. A. He was one of the managers of the syndicate, yes.

Q. Do you know anything further in regard to that? A. No.

Q. In this case the Equitable paid on call certain amounts? A. Yes, and received——.

Q. And received receipts which it rendered on repayment of the money, or did it withdraw the bonds? A. At the close of the syndicate the Equitable received in lieu of money paid out securities.

Q. Yes. The Wabash Pittsburg Terminal first and second 4's and certain common stock? A. Yes.

Q. Do all those securities appear upon the books of the society? A. Yes.

Q. Duly accounted for? A. Yes, sir.

Q. Was there any money profit divided? A. I believe not.

Q. You have made inquiries to ascertain as to that? A. Yes.

Q. Were the payments made by the Equitable, payments on account of the Equitable participation alone? A. Yes.

Q. And not for any other participation? A. Only for their own. The vouchers show that clearly.

(Vouchers produced by witness.)

*Testimony of Henry Rogers Winthrop*

Q. Payments were made to the Mercantile Trust Company?

A. Yes, sir, we received our sub participation from them.

Q. When these bonds of the Pittsburg Wabash Terminal came in, do I understand that they came in as profits? A. They came in as a result.

Q. How, in what way? Do you recall anything about that?

A. No. I think that was some option to take the securities at a certain price.

Q. I find an agreement annexed to the vouchers for the final call of June 6, 1904, between the holders of the first mortgage bonds of the Wabash Pittsburg Terminal Railway Company and Vermilye & Company and Blair & Company, the bankers, in which it is stated that in consideration of the bankers having undertaken to act as bankers for the company in engaging within a limited period certain of the bonds which had been reserved for the development of its property, and the parties desiring as far as possible to maintain the stability and credibility of the entire issue, and uniform conditions in the market being of same, and guarding against diverse terms and methods of negotiating, it was agreed that the subscribers would not sell or offer for sale to any party other than bankers, any of the first mortgage bonds owned by them respectively, as hereunder written, and that at any time during said period of one year, when and as requested by the bankers in notice in writing, they would respectively sell and deliver to the bankers at the office of Vermilye & Company, all or any part of the bonds owned by them at 89 and interest, to be paid upon demand, and further agreed that any bondholder may withdraw any part of the bonds from the operation of the agreement to sell, by notice to the bankers within sixty days, or at any time thereafter with the consent of the bankers, whereupon the bonds so withdrawn shall not be sold or offered for sale during the continuance of this agreement, the option to be exercised by depositing notice in

*Testimony of Henry Rogers Winthrop*

writing with the Mercantile Trust Company, on or before June 6, 1905."

Did the Equitable become a party to that agreement? A. I think they did. I am not sure. I will look it up.

Q. By action of its Finance Committee or Executive Committee? A. I will have that looked up. I think we did. We must have.

Q. I should like to see the minutes of the Committee which provide for the execution of that agreement in regard to the withdrawal of the bonds from the market. Do you know whether or not those bonds are still in the ownership of the society? A. We sold nearly all of our second fours and all of the Wabash stock.

Q. But this agreement I have read related to the first 4's? A. Yes, we still have those.

Q. Has there been any extension of the agreement to which I have referred? A. I think the agreement expires very shortly.

Q. Do you know the date of the agreement? A. No, sir.

Q. It recites a date of June 6th, 1904. A. Well, then it has expired.

Q. Recurring again to the railway securities company syndicate, this is a fact that there were two syndicates there, that there was another syndicate in 1904, or a new issue of bonds to take up the old issue? A. The bonds were to have been originally bought out at 3½ per cent, but were later changed to four per cent.

Q. That was a mere change in the rate of interest in the bonds? A. Yes.

Q. Have you any further information regarding the Pittsburg & Toledo matter? A. No, sir.

Q. The next entry is Chicago, Burlington & Quincy Purchase Syndicate, managers, J. P. Morgan & Company, the participation was received by the Equitable direct from J. P. Morgan & Company, was it not? A. I don't know whether it was or not.



*Testimony of Henry Rogers Winthrop*

Q. See that first letter. A. Well, this says it was received direct. It is addressed to the Equitable. Well, there is a difference there——

Q. Of amount? A. Of amount.

Q. But it was received direct? A. Yes.

Q. Now, the amount is stated in your sheet Exhibit 157 to be \$500,000. It should be \$1,500,000, should it not? A. Yes, sir, of which the Equitable allotted to other companies and individuals a participation of its participation.

Q. Have you got a statement of those allotments? A. Yes, sir (handing paper).

Q. From this statement which you now hand me I see that the participation was as follows:

Total participation allotted by J. P. Morgan & Company, May 1st, 1901, to the Equitable and its Associates ..... \$1,500,000  
divided as follows:

|                                      |             |
|--------------------------------------|-------------|
| Equitable Life Assurance Society.... | \$500,000   |
| Mercantile Trust Company .....       | 100,000     |
| American Deposits & Loans Company.   | 50,000      |
| J. W. Alexander .....                | 100,000     |
| General Fitzgerald .....             | 100,000     |
| James H. Hyde .....                  | 100,000     |
| C. M. Depew .....                    | 100,000     |
| M. Hartley .....                     | 100,000     |
| W. A. Wheelock .....                 | 100,000     |
| George H. Squire, et al .....        | 200,000     |
| The Fidelity Trust Company .....     | 50,000      |
| <hr/>                                |             |
| Total .....                          | \$1,500,000 |

That is correct, is it not? A. Yes.

*Testimony of Henry Rogers Winthrop*

Q. Can you show me any resolution of the Executive Committee, authorizing the transfer by the Equitable or the allotment by the Equitable of interest in its participations to these individuals, named? A. I will have that looked up, sir.

Q. What was the date when that was distributed? A. It was distributed before May 1st, 1901.

Q. Perhaps you can look at the record right away? A. I will have it looked up.

Q. Your understanding is that this division of the participation allotted to the Equitable among the various corporations and individuals named, was contemporaneous with the receipt of the participations by the Equitable of J. P. Morgan & Company? A. Yes.

Q. What I want to get at is, what action was taken by the Committee or Board, or Officers of the Equitable authorizing or approving of that division of its interests. That you will have looked up? A. That will be looked up.

Q. What was the Chicago, Burlington & Quincy Syndicate? A. We have not the syndicate agreement here. This syndicate was formed for the purpose of underwriting a new issue of C. B. & Q. collateral trust four per cent bonds.

Q. My impression is that you have already stated and if not, I want it to appear distinctly, that those \$1,500,000 allotment to the Equitable in this syndicate was made direct by J. P. Morgan & Company? A. Yes.

O. To the Equitable? A. Yes.

Q. You had a letter which you showed me a moment ago—I think you said that a moment ago? A. Yes. The letter shows it.

MR. HUGHES: Which I will offer in evidence.

(Paper marked Exhibit 168.)

*Testimony of Henry Rogers Winthrop*

MR. HUGHES: I will read upon the record this letter:

(Reads Exhibit No. 168.)

Q. Now, I understand that the Equitable as a society signed the syndicate agreement as stated in that letter? A. Yes.

Q. So the first thing we want is the action of any committee or board or officers, authorizing or approving the signing of that agreement. A. Yes.

Q. Then I understand, that having acquired a participation in that way, the Equitable divided it up by allotting interest in its participation to the individuals and corporation companies in the list you handed me a moment ago? A. Yes.

Q. Now, this C. B. & Q. Purchase Syndicate was a syndicate for the purpose of floating the Chicago, Burlington & Quincy joint 4's, or the bonds that were issued against the stock of the Chicago, Burlington & Quincy Railroad? A. Yes, sir.

Q. The bonds were joint bonds of the Northern Pacific Railroad Company and the Great Northern Railroad Company? A. Yes.

Q. And these bonds were secured by the stock of the Chicago, Burlington & Quincy Railway? A. Yes.

Q. Tell me what the transactions were on the part of the Equitable as to its division of its participations? A. The Equitable paid out on two dates money amounting to—they paid out on May 16 \$150,000 at par and on July 22, 1901, \$187,500 at par, and on July 2 the society received back the amount paid out to \$337,500, at par, and also received interest to July 1, 1902, at the rate of four per cent., \$13,812.50, and in addition a profit on its participation of \$500,000, of \$7,728.

Q. When a call was made upon this syndicate participation which the Equitable had received, aggregating \$1,500,000, and

*Testimony of Henry Rogers Winthrop*

which it had divided, retaining for itself \$500,000, who paid the amount called for? A. Each individual participant.

Q. Let us see, on May 14, 1901, the first call was made for ten per cent., wasn't it? A. Yes.

Q. And ten per cent. of the entire participation of \$1,500,000 would be \$150,000? Yes? A. (No answer.)

Q. You have the letter, I think, of May 14, 1901, calling that ten per cent.? A. Yes, here is the letter calling for ten per cent.

Q. That is the first call? A. Yes.

MR. HUGHES: I offer that letter in evidence and read it upon the record.

(The paper was marked Exhibit No. 169.)

MR. HUGHES reads Exhibit No. 169.

Q. Now, in response to that call the Equitable paid the whole \$150,000, did it not? A. Yes, sir; it did.

Q. Did the other corporations and persons to whom the Equitable had transferred interests in its participation then pay the Equitable any part of the amount it had been called upon for?

A. I will have that looked up. I have not the facts here.

Q. You don't——. A. That entry for interest seems to be their payment, interest on the money advanced 4 per cent. I will have that looked up in detail.

Q. When a moment ago you stated that the various individuals paid their share of the calls, that is, the individuals and corporations to whom the Equitable had transferred parts of its interest, you were under a misapprehension, were you not? A. I was speaking from what appeared to be the record, but which I find was wrong.

*Testimony of Henry Rogers Winthrop*

Q. Yes. As a matter of fact, the Equitable having received a participation of \$1,500,000 paid the entire amount of the call and the persons who had received parts of its participation would not pay any of the call? A. Not directly to J. P. Morgan & Company.

Q. Nor to the Equitable? A. That I will look up and see.

Q. That you are not sure of at the moment? A. No, sir.

Q. Now, the next call that was made was for 12½ per cent. July 19, 1901, was it not? A. Yes, sir. (Producing paper.)

MR. HUGHES: I offer that letter in evidence and read it:

(Marked Exhibit 170.)

MR. HUGHES reads Exhibit No. 170.

Q. And that entire amount of \$187,500 was paid by the Equitable? A. Yes, sir.

Q. Those payments were made respectively on May 16 and July 22, 1901? A. Yes, sir.

Q. Then on July 2, 1902, the Equitable got back from J. P. Morgan & Co. the whole \$337,500 with interest, did it not? A. No, the interest——.

Q. No, it got back the whole amount? A. Yes, sir.

Q. Then it also received on July 1, 1902, interest at 4 per cent. amounting to \$13,822.50. From whom did it get that? A. I will have that looked up. That is what I believe it got back from the other participants.

Q. Well, that would imply that the other participants paid interest on the whole \$337,500, whereas, of course, as the Equitable retained a third of the \$1,500,000 it is hardly supposable that they paid interest on that part. Was not that interest received from the syndicate managers? A. I will have to have

*Testimony of Henry Rogers Winthrop*

that looked up. I do not like to testify—this is rather mixed up——

Q. I understand, of course. You are testifying to matters as to which you have no personal knowledge and no direct participation? A. No.

Q. But you are looking these matters up from the record of the society? A. Yes.

Q. The society, in addition to getting the money back which it had put up and interest, got a profit of \$7,729? A. Yes.

Q. Have you the letter accompanying the check? A. Yes.

(Produces paper )

MR. HUGHES: I offer that in evidence.

(Marked Exhibit 171.)

MR. HUGHES reads Exhibit No. 171.

Q. Enclosed in that letter was a check to the Equitable for \$374,000, was there not? A. I presume so.

Q. And in the statement you have prepared you show a profit to the society of \$7,729. How is that? A. That is what appears on the books under the heading of this syndicate.

Q. Who got the other \$29,000? A. We will ascertain from our books how that was divided.

Q. Now, did the Equitable buy these Chicago, Burlington & Quincy joint 4's? A. Yes.

Q. Now, referring to the list of purchases for 1901, made by the Equitable Society, we find under date of August 6th, 1901, Chicago, Burlington & Quincy, 4 joint 1921 \$115,000 par, cost \$112,761. Those were bought from whom? A. Halstead & Hodges.

*Testimony of Henry Rogers Winthrop*

Q. Who are they? A. Members of the New York Stock Exchange.

Q. Then on the same date you bought \$50,000 for \$49,437 from Henry Brothers & Company. Who are they? A. Members of the New York Stock Exchange.

Q. And on the same date \$300,000 for \$295,225 from J. H. Latham. Who is he? A. I think he is, or was, a member of the New York Stock Exchange.

Q. On the same day \$50,000 for \$49,562 from G. B. H. & Company? Who are they? A. George B. Hopkins & Company.

Q. Now, all of those purchases were made in the market in the ordinary way, were they? A. Yes, sir.

Q. On the same day you buy a million from J. P. Morgan & Company for \$993,750. What was that? A. That was just another purchase of the bonds.

Q. From the syndicate managers? A. Well, from J. P. Morgan & Company as a firm; not necessarily as syndicate managers. We would buy the bonds from wherever we could get them the cheapest.

Q. I see. Are these the first purchases that were made? A. I think they are.

Q. J. P. Morgan & Company at this time had not closed their syndicate operations, that is, they had not disposed of the bonds. You see, on July 22nd, they called you for \$187,500, and you paid it and this is only August 6th. A. Yes. But we received back our allotment on July——

Q. They are still floating the bonds? A. Still selling the bonds; yes.

Q. So that it would appear from that that this \$1,000,000 was bought from J. P. Morgan & Company as syndicate managers? A. Yes.

Q. Then we find on August 7th Northern Pacific—Great Northern joint 4's C. B. & Q. collateral—— A. I am informed,

*Testimony of Henry Rogers Winthrop*

Mr. Hughes, that the syndicate managers received very few of these bonds as syndicate managers and that the bonds were offered to the stockholders of the railroad at par and were very largely taken by them, and so that, while we did buy bonds from J. P. Morgan & Company, they were probably acting as the agents of the stockholders in that case and not as the syndicate managers.

Q. The members of the syndicate, as I understand it, as I am informed, made a profit where the bonds were taken by the stockholders? A. I haven't the slightest——

Q. As well as in case of bonds that were sold by the syndicate managers? A. The syndicate agreement will probably show that.

Q. You haven't a copy of that agreement? A. No, sir.

Q. So that to return, you don't know but that these bonds that were purchased from J. P. Morgan & Company were really held and sold by J. P. Morgan & Company as stockholders or agents of stockholders and not as syndicate managers? A. Yes, sir.

Q. So that you are not prepared to say that the purchases which the Equitable made of these bonds from J. P. Morgan & Company went to swell the profits of the members of that syndicate? A. No.

Q. You don't know as to that? A. I am not prepared to say that, no.

Q. But to get the facts now as to what purchases they did make, we had gone to this point that on August 7 there was another purchase of \$50,000 for \$48,487 from G. P. Hopkins & Company. That was in the market? A. Yes.

Q. In the ordinary way? A. Yes.

Q. And the same date \$35,000 for \$34,029 from Halstead & Hodges. That was in the market? A. Yes, sir.

Q. What amount of the Chicago, Burlington & Quincy joint 4's that we have referred to are owned by the Equitable Life Assurance Society? A. You had the complete list.



*Testimony of Henry Rogers Winthrop*

Q. Perhaps you can refer to the published report of December 31st, 1904, for that. You will find, on that date the Equitable held in par value \$2,305,000 of this issue of bonds? A. Yes, sir.

Q. And the \$2,305,000 had been acquired from time to time by the Equitable down to that date, but largely in 1901 and 1902, had they not? A. Yes, sir.

Q. So that it was a security which the Equitable was willing to acquire and hold? A. It was and is.

Q. To an amount not only equal to the participation originally allotted to it of \$1,500,000, but to an amount far in excess of that?

A. Well, at the time that they took the allotment they may not have been willing to purchase any more than they did.

Q. Well, that we can only conjecture about, because of course neither you nor I know what was in their minds at the time, but it appears that they had subsequently acquired some \$2,000,000 of these bonds? A. Yes.

Q. And so far as the facts throw any light upon it, we see no reason for the Equitable Life Assurance Society parceling out the interest that was allotted to it? It doesn't appear to have been because they didn't want to have as large an interest in those bonds, does it? A. Well, that is conjecture.

Q. So far as you know there is nothing to support that view? A. No, sir.

Q. Was this matter before the Frick Committee? A. I don't know that it was called for. The Frick Committee made calls for the specific information, and whatever they called for they got.

Q. So that you don't know whether in fact it was below them or not. I find it is not mentioned in their report? A. Then they probably didn't call for it.

Q. Now, we have here the C. B. & Q. purchase syndicate agreement, under date of April 25, 1901, which has been marked already Exhibit 53 for identification, from which I will read certain paragraphs upon the record:

*Testimony of Henry Rogers Winthrop*

"Second. From time to time J. P. Morgan & Co., for account of the syndicate, may make purchases, in the market or otherwise, at such prices and on such terms as they may deem expedient, of stock of the Burlington Company or of certificates of deposit of stock under such offer of the Railway Companies to F. W. Hunnewell and others as a committee, or of such bonds of the Railway Companies, before or after the issue thereof, such purchases to be in addition to the purchase of bonds under such agreement of J. P. Morgan & Co., as Syndicate Managers, with the Railway Companies; and, in their discretion, from time to time, J. P. Morgan & Co. may deposit under such offer of the Railway Companies any stock so purchased and may receive certificates of deposit therefor and may resell any stock so purchased, and any such certificates of deposit or bonds by them purchased or received upon any exchanges; and from time to time they may apply the proceeds of sales in making further purchases; but the sum invested in unliquidated purchases under this article, exclusive of purchases under said contract with the Railway Companies, shall never at any one time be more than \$25,000,000. The term 'securities' when herein used includes and means not only the bonds of the Railway Companies, but also shares of capital stock of the Burlington Company, and certificates of deposit of stock under said offer of the Railway Companies."

"Third. From time to time, upon call of J. P. Morgan & Co., whether or not any securities shall have been received, the syndicate will pay to J. P. Morgan & Co. such sums, in the aggregate not exceeding \$75,000,000, as J. P. Morgan & Co. may request. J. P. Morgan & Co. shall be authorized to use all such sums for any of the purposes of this agreement."

"On signing this agreement each subscriber shall indicate opposite his name the total sum of his subscription on account of the whole syndicate obligation hereunder; and the several

*Testimony of Henry Rogers Winthrop*

Subscribers shall be called upon to make payments in respect of their several subscriptions only ratably according to the several amounts thereof; but each subscriber shall be so responsible to the full extent of his undertaking regardless of performance or non-performance by any other Subscriber. In the same proportion each Subscriber shall share in the benefits, and shall bear any loss resulting to the syndicate under this agreement. Nothing herein contained shall constitute the parties hereto partners, or shall render any one of the Subscribers liable to contribute more than his several proportionate amount as herein provided, or shall prevent any of the parties from contracting on their own account with the Railway Companies or with each other."

Paragraph fourth relates to the option of J. P. Morgan & Co. in the case of a failure of any subscriber to perform any of his undertakings to exclude such subscriber from interest in the syndicate and to sell at public or private sale the participation of such Subscriber.

Paragraph fifth provides that J. P. Morgan & Co. shall be the sole managers of the syndicate and in behalf of the syndicate may enter into further undertakings of any kind with regard to the capital stock of the Burlington Company or of such joint bonds of the Railway Companies, and that J. P. Morgan & Co. shall have authority from time to time to make advances, to procure loans, to incur expenses and pay compensation to brokers, agents, counsel and others, the subscribers to be bound by their action.

"Paragraph sixth: From time to time J. P. Morgan & Co., in behalf of the syndicate, may make sales of all or any part of the securities that shall be acquired for account of the Syndicate. Any such sales may be made by J. P. Morgan & Co. either publicly or privately, by themselves, or in such manner as they may deem proper, and shall be upon such terms and for such

*Testimony of Henry Rogers Winthrop*

price or prices as they may deem expedient. Each subscriber hereby assents to, and agrees to be bound by, any such action. All expenses connected with such sales shall be borne by the Syndicate, and J. P. Morgan & Co. may charge the usual brokers' commission thereon."

"Seventh. No Subscriber shall be entitled to receive any of said securities before January 1, 1902. In the meantime, in their discretion, J. P. Morgan & Co. either themselves may retain all or any of such securities, or they may deliver to any subscriber his proportionate part thereof, upon his agreement to hold the same subject to sale by J. P. Morgan & Co., and to return the same upon call of J. P. Morgan & Co., at any time before January 1, 1902."

"Should any Subscriber desire to withdraw from sale the portion of bonds to which he may be entitled thereunder, J. P. Morgan & Co., in their discretion, may deliver to such Subscriber his portion of such bonds, upon his agreement to hold the same for himself without sale until January 1, 1902, or until such earlier date as may be determined by J. P. Morgan & Co."

Paragraph eighth provides that J. P. Morgan & Co. shall not be liable for any matter under the agreement except for good faith and the exercise of their judgment. That all moneys received by them shall be received by them and held by them as bankers; that they may become subscribers to the syndicate in the same manner as other subscribers, and that their compensation for services as syndicate managers shall be one-fifth of the aggregate cash compensation to be paid to the syndicate under such proposed agreement.

The subsequent paragraphs are formal.

In connection with these parts of the agreement should also be read the recital, which recites that the Northern Pacific Railway Company and the Great Northern Railway Company desired to acquire all or not less than two-thirds of the capital

*Testimony of Henry Rogers Winthrop*

stock of the Chicago, Burlington & Quincy Railroad Company in consideration of the delivery of the joint bonds for a principal sum equal to twice the par value of the stock, the bonds to bear interest at 4 per cent. Also the recital that the railway companies have made an offer to F. W. Hunnewell and others, as a committee in behalf of themselves and other stockholders of the Burlington Company, to purchase their stock on the terms aforesaid, and such offer provides that on the written request and offer of said committee to be delivered to J. P. Morgan & Company on or before May 24, 1901, the railway companies at the time of the completion of such purchase, but not later than September 2, 1901, to such amount as may be specified in such written request and offer, but in the aggregate not exceeding \$50,000,000 instead of bonds, will pay in cash the par value of such bonds for any such deposited stock, such cash being received by said railway companies from J. P. Morgan & Company as managers and further that the railway companies at the request of J. P. Morgan & Company as syndicate managers in behalf of the syndicate subscribers to enter into an agreement with the railway companies whereby the syndicate shall undertake, among other things, to put such stock in cash, not exceeding \$50,000,000 and to take therefor such bonds at par, and in consideration of such undertaking of the syndicate that the railway companies shall undertake to pay J. P. Morgan & Company, as syndicate managers, a commission or compensation of five per cent. on such sum of \$50,000,000 in case such purchase by the railway companies of at least two-thirds of the capital stock of the Burlington Company shall be consummated, and if it shall not be consummated reasonable compensation to be agreed upon.

THE CHAIRMAN: The committee will stand in recess until quarter after two.

## AFTER RECESS.

HENRY R. WINTHROP, resumed.

BY MR. HUGHES:

Q. I asked you if you could refer to any action by the Executive Committee or Finance Committee of the Equitable Life Assurance Society authorizing or approving any assignment of any portion of its participation in the Chicago, Burlington & Quincy purchase syndicate to any of the individuals or corporations to whom portions of its interest were transferred. A. That has been looked up during the lunch hour and I am informed no such resolution is on the minutes.

Q. Have you found any paper other than the mere list of participants which embodied a transfer or recites a transfer to the participants of interests or shares of the Equitable interest in that syndicate? A. Well, we have not looked through the copy book as yet of George H. Squire, who would have the correspondence.

Q. I asked you with regard to check of \$37,000 to the order of the Equitable Life Assurance Society received from J. P. Morgan & Company as its share of the profits on its participation of \$1,500,000, being the total amount allotted to it. Have you been able to find whether that check was deposited to the credit of the Society? A. We have not started on that, but we do find, by referring to the account book of various accounts, that Mr. Squire wrote a letter to the Equitable Life enclosing a check for \$7,729.17, being the profit on the Equitable's participation

*Testimony of Henry Rogers Winthrop*

of \$500,000, amounting to \$12,333.33, less a debit of \$4,604.16, the interest on the two payments of the Equitable's proportion. Then on the same date also another letter to the Equitable Life in which he sends his check for \$351,312.50, being the amount in full for payment on account of the above-named syndicate amounting to \$337,500, as shown by my sheets, plus interest at 4 per cent., so the interest which is deducted here is included here.

Q. The letters you refer to are dated July 2, 1902? A. Yes.

MR. HUGHES: I offer them in evidence.

(Marked Exhibits 172 and 173).

MR. HUGHES reads Exhibits Nos. 172 and 173.

Q. Now it would appear from this letter of July 2, 1902, addressed to the Society by Mr. Squire, that the amount returned by J. P. Morgan, that is, the amount which the Equitable Society had already paid J. P. Morgan & Company on account of the total allotment, had been received by Mr. Squire. How do you account for that? A. It was probably received by the Society and turned over to Mr. Squire, the amount of the profit was.

Q. I am talking now about the return of the \$337,500 which the Equitable Society had paid to J. P. Morgan & Company on call. A. The Society received that back on July 2, 1902.

Q. Received it back from Mr. Squire apparently, from this letter? A. Yes.

Q. Now, did J. P. Morgan & Company make their check to Mr. Squire's order? A. I don't know.

Q. J. P. Morgan & Company, in all the communications that we have noted in regard to this matter, were writing to the Equitable Society direct? A. Yes.

*Testimony of Henry Rogers Winthrop*

Q. Is it your idea that the Equitable Society got a check for \$337,500 from J. P. Morgan & Company as the return of the payment on call and turned over that check to Mr. Squire? A. Presumably.

Q. Then Mr. Squire, having that check in hand, added to it \$13,812.50, being interest at 4 per cent on \$337,500, and gave to the Equitable Society his check for the total of \$351,312.50? A. Yes.

Q. Now, so far as you have been able to ascertain, the Equitable Society did not get that amount of \$13,812.50 interest from J. P. Morgan & Company? A. No.

Q. That amounted in effect to Squire paying the Equitable Society interest at 4 per cent upon the entire amount, which the Equitable Society had paid upon call of J. P. Morgan & Company? A. Yes, and taking——

Q. Pardon me a moment, until we come to that. Now then, the Equitable Society, as we have seen, got a check from J. P. Morgan & Company for \$37,000 as the share of the profits of \$1,500,000 participation in that syndicate? A. Yes.

Q. Now, it would appear from this other letter of Mr. Squire that he got hold of that money and paid over a portion of it to the Equitable. How do you account for that? A. Well, the Equitable were entitled to their proportion of the profits of the J. P. Morgan & Company check, namely, one-third.

Q. Yes. A. But Mr. Squire had paid to the Equitable 4 per cent on the entire money advanced, of which one-third of the money advanced was for the Equitable, therefore the Equitable had to pay 4 per cent on the money advanced, which was deducted from the net profit of the syndicate, leaving a result as shown by the statement of \$7,729.

Q. But the Equitable Society got a check from J. P. Morgan & Company of \$37,000, the total profit on the total allotment of \$1,500,000? A. Yes, sir.



*Testimony of Henry Rogers Winthrop*

Q. Now, what did the Equitable Society do with that check?

A. Why, presumably turned it over to Mr. Squire.

Q. Endorsed it and turned it over to Mr. Squire. A. For settlement of the participation.

Q. Then Mr. Squire, having got that check of \$37,000, and having already, in the other case that we have mentioned, paid the Equitable Society an amount of four per cent interest on the payments made by the Equitable; then proceeded to pay the Equitable \$12,233.33 less four per cent on the payments, which would be the Equitable's share of the total payments paid by it? A. Yes.

Q. In other words, the Equitable having a total allotment of \$1,500,000 and retaining \$500,000 for itself of that allotment, would have paid up normally one-third of the total payments? A. Yes.

Q. In fact, it paid all the amounts that were paid? A. Yes, sir.

Q. \$337,500? A. And received four per cent.

Q. Pardon me. And the amount which would have been payable on the share which it retained was \$112,500? A. Yes.

Q. Now, Mr. Squire, giving the Equitable the amount that it had paid with four per cent interest on the whole amount, then deducted from the profits four per cent interest on the \$112,500, which would have been the Equitable's share of the payments? A. Yes.

Q. And deducted that amount from one-third of the profits? A. Yes.

Q. The total profits being \$37,000, one-third of the profits was \$12,333.33, and four per cent interest on \$112,500, one-third of the payments, being \$5,614.16, Mr. Squire then turned over to the Equitable the difference of \$7,729.17? A. Yes, sir.

Q. Mr. Squire, then retaining the balance of the profits amounting to \$24,666.66, out of which presumably he paid to the Equitable interest at four per cent upon two-thirds of the \$337,500 that had been paid? A. Yes, sir, but it would have been

*Testimony of Henry Rogers Winthrop*

just the same, Mr. Hughes, if Mr. Squire had paid over to the Equitable its full third of the profits received, and then had only charged interest on the remaining two-thirds of the money advanced. It is just as a bookkeeping entry.

Q. Exactly. A. The amounts total up the same each way?

Q. Yes. In other words, the effect of it was that Mr. Squire took the check for \$37,000 and he paid over to the Equitable one-third of that \$37,000 and four per cent. interest on the payments which had been made by the Equitable to the extent of two-thirds of such payments. A. Yes, sir; that is the result.

Q. So that in the result the Equitable put up the money called for on the shares of the participation which it had given to these various corporations and individuals named in the list? A. Yes, sir.

Q. And subsequently received back that money with four per cent. interest? A. Yes, sir.

Q. Mr. Squire acting for these individuals and corporations as the agent in effecting the adjustment? A. Yes, sir.

Q. And these individuals and corporations got these profits on the amounts which had been given to them by the Equitable out of its participation, less four per cent. on the amounts which had been paid by the Equitable on account of such interest? A. Yes, sir.

Q. Now, the four per cent. interest on the two-thirds of the payments which should have been made by these who participated in the Equitable's allotment amounts to how much? A. \$9,208.34.

Q. And two-thirds of the profits that Mr. Squire obtained amounted to \$24,666.66? A. Yes, sir.

Q. So that out of the two-thirds of the profits which he retained Mr. Squire, for the individuals and corporations that received shares of the Equitable's participation, paid interest at four per cent. on the payments made by the Equitable in their behalf, amounting to \$9,208.34, leaving as the net profit over such

*Testimony of Henry Rogers Winthrop*

interest to the individuals and corporation, how much? A. \$15,458.32.

Q. And to repeat, instead of the Equitable making the divisions of the profits among the various individuals and corporations to whom were transferred shares of its allotment, the Equitable turned over the check received by it for the profits to Mr. Squire, and let him make the division? A. Apparently.

Q. Now, the next syndicate on the list is Chicago & Northwest Bond Syndicate, managers, Kuhn, Loeb & Company, That participation was received direct from the managers, as I understand it? A. Yes, sir.

Q. There were no individuals or corporations connected with the Equitable in that transaction? A. No, sir.

Q. Do you know what persons in any way related to the Equitable, as officers or directors, were themselves participants in that syndicate? A. No, sir. I might state here, Mr. Hughes, if I may, that at the suggestion of the chartered accountants, Mr. Morton has prepared a letter which has been sent to all syndicate managers, which we have had any dealings with in the past ten years, asking them for statement showing the syndicate participations given to the Equitable direct, to its ally companies or to the various individuals who have been during that period members of our Finance or Executive Committee, and as soon as that statement has been prepared by the bankers, if they will prepare it, and we understand that they will, that will be furnished to you.

Q. Thank you. On this syndicate participation in Chicago & Northwest, the society made certain payments which it subsequently got back—no, pardon me, it made certain payments, and it subsequently withdrew certain bonds? A. Yes, sir.

Q. What were the bonds that it withdrew? A. \$100,000 Peoria & Northwest first 3½'s, due 1926, at a cost slightly over par; \$70,000 Princeton & Northwest, 3½'s, \$107,000 Sioux City

*Testimony of Henry Rogers Winthrop*

& Pacific first 3½'s. They also had refunded in cash \$2,391, and also proceeds from \$30,000 Princeton & Northwest first 3½'s at 101 and interest, equalling \$30,300 and 83 Sioux City and Pacific first 3½'s at 101 and interest equalling \$83,830.

MR. HUGHES: As that statement amplifies and corrects the statement furnished here on Friday I will offer it in evidence.

(Marked Exhibit No. 174.)

Q. These securities that were received from the syndicate went upon the Equitable books? A. Yes, sir.

Q. Duly accounted for? A. Yes, sir.

Q. The moneys that were received, do they appear to have gone in the Equitable's books? A. All duly accounted for.

Q. And all applied directly, I mean placed directly in accounts of the Equitable, and not in the accounts of other persons? A. To the credit of the society.

Q. So far as you have been able to ascertain, has the society received all of the profits to which it is entitled in that transaction? A. I am so informed by the syndicate managers.

Q. Have you the papers that you have been able to find in that? (Witness produces paper.)

Q. I note in the letter of June 13, 1901, addressed to the Equitable Life Assurance Society by Kuhn, Loeb & Company referring to these bonds, which were drawn by you as follows:

"The bonds are to remain syndicated subject to our call."

That was pursuant to the same sort of an arrangement that you have hitherto testified to, that the bonds that were withdrawn or script for bonds delivered to remain until the operations of the syndicate had ended, subject to the call of the syndicate managers. Is that right?

*Testimony of Henry Rogers Winthrop*

Q. Now, were these called for subsequently? You refer here to proceeds in your statement A. Well, it appears that we voluntarily withdrew some of the bonds.

Q. Yes, I know that appears, but it also appears that they were to remain syndicated subject to the control of Kuhn, Loeb & Co. Now, as a matter of fact, you say that proceeds were subsequently derived from these bonds. How were they derived? Were they derived by direct sale on the part of the Equitable or from the syndicate managers? A. Oh, the syndicate managers took the bonds and sold them. These refer to the big sheet. It is more explicit there.

Q. Some of these you withdrew for investment. What were they? A. We withdrew apparently for investment 70,000 Peoria & Northwest—

Q. Well, I see it is stated upon this paper that you have given me. Then those you mention below referring to proceeds from 30,000 Princeton & Northwest, and proceeds from 80,000 Sioux City & Pacific you resold to the syndicate managers? A. Yes, and if you subtract this from the above it will give the net result.

Q. And you sold those to the syndicate managers at syndicate prices? A. Yes.

Q. And the syndicate managers subsequently accounted to you for the profits. Where does that appear? A. Refund in cash \$2,391.

Q. Well, that is a refund; that isn't a profit, is it? A. I am unable to answer that. I will have that looked up. I am informed that that profit is what was put down here as the refund, amounting to \$2,391. It appears that the Society bought the bonds as is shown in that exhibit, and that they later returned to the syndicate manager the two lots of 30,000 Princeton & Northwest and 82,000 Sioux City & Pacific, keeping the remainder of the bonds as an investment, which were put on the books of the Society at a cost equalling the amount paid out, including the profit.

*Testimony of Henry Rogers Winthrop*

Q. Now, you have given me all the information you have relating to that syndicate? A. Yes, sir.

Q. The next one is Mexican National Readjustment syndicate, managers Speyer & Co and Kuhn, Loeb & Company. You were unable to state on Friday the amount of the Equitable's participation in that. You now state that it was \$500,000, is that right? A. I have here the letter of Speyer & Co. and Kuhn, Loeb & Co. offering us a participation of \$500,000.

Q. Were there any individuals or corporations connected with the Equitable in that participation? A. Not in our participation.

Q. Did the Equitable receive a larger participation, which it divided with others A. No, sir; it did not.

Q. Do you know what other persons, or what persons connected with the Equitable were interested in that syndicate? A. No, sir.

Q. The Equitable paid twenty per cent on account of its subscription, or \$100,000, which was subsequently returned? A. Yes, sir.

Q. Did the Equitable withdraw any bonds? A. No, sir.

Q. Did it buy any of those bonds in the market or from the syndicate managers? A. Not unless they appear on the sheets. We haven't looked that up.

Q. The Equitable received a profit of how much? A. Of \$20,821.57.

Q. Was that passed to the credit of the Equitable? A. Duly booked.

Q. Are you able to state that that was all the profit to which the Equitable was entitled? A. I believe it was.

Q. What papers have you relating to that? (Witness produces papers.)

Q. Now, the next syndicate is Atlanta Coast Line Railroad syndicate, J. P. Morgan & Company, syndicate managers. This is

*Testimony of Henry Rogers Winthrop*

the syndicate mentioned under the same title in the list, but then you were unable to state the names of the managers? A. Yes, sir.

Q. Or the allotment? A. Yes, sir.

Q. Now, what was the allotment? A. I haven't ascertained that. I don't know the amounts that were called.

Q. That was received from James H. Hyde and associates? A. Yes, sir.

Q. And you don't know what is the total amount allotted to James H. Hyde and associates? A. No, sir.

Q. And you don't know how much of the allotment to James H. Hyde and associates went to the Equitable? A. No, sir.

Q. What papers have you relating to that matter? A. Just the two vouchers.

Q. Showing two payments? A. Yes.

Q. One of \$750,000, under date of October 8th, 1902, signed George H. Squire, approved Thomas D. Jordan and the other for \$626,096.90, similarly signed and approved? A. Yes, sir.

Q. Have you any correspondence relating to the matter? A. No, sir.

Q. The first payment of \$750,000 was made to J. Pierpont Morgan & Company as syndicate managers? A. Yes, sir.

Q. The second payment on May 12, 1904, was paid to the Equitable Trust Co.? A. Yes, sir.

Q. Can you explain why it was paid to the Equitable Trust Co.? A. It appears to have been carried there in a loan.

Q. Please explain that. A. It appears that this was put into the Equitable Trust Company as a loan in the name of one of the clerks in the office.

Q. What clerk? A. E. Barrington.

Q. I don't understand just what you mean by putting it in as a loan? A. Well——

Q. Do you mean that this was loaned to the Equitable Trust

*Testimony of Henry Rogers Winthrop*

Company? A. So as to get it off the books of the society apparently.

Q. Well, was it a loan to the Equitable Trust Company?

A. No, the Equitable Trust Company loaned money on the bond.

Q. To whom did they loan it? A. Presumably to the Society. It was eventually taken up by the Society.

Q. Then this amount paid to the Equitable Trust Company of \$626,096.90 was in repayment of a loan? A. Was in repayment of the loan.

Q. Do the books of the Equitable Society show that loan?

A. No, sir.

Q. Your information as to that loan is derived from the paper you now show me? A. Yes.

MR. HUGHES: I offer that in evidence.

(Marked Exhibit No. 174A.)

MR. HUGHES reads Exhibit No. 174A.

Q. Then your information that that had anything to do with the Atlantic Coast Line syndicate is derived from the voucher you now produce? A. Yes.

MR. HUGHES: I offer that in evidence.

(Marked Exhibit 175.)

MR. HUGHES reads Exhibit No. 175.

Q. Now this says purchased balance of \$600,000 Atlantic Coast Line syndicate. The prior payment made by the Equitable Society was \$750,000. Do you interpret this to mean that the Equitable



*Testimony of Henry Rogers Winthrop*

Society acquired from the Equitable Trust Company a participation which the latter company had in the syndicate? A. No, sir.

Q. You interpret this to mean that it is a balance on account of the payment of the Equitable's own share? A. Yes, they carried a certain amount direct and a certain amount on a loan.

Q. Was there any reason for that that you know of? A. Not that I know of.

Q. Why should it have been to the advantage of anybody not to have it appear that the Equitable had an interest in this syndicate of \$600,000? A. I don't know, sir.

Q. How does that loan appear in your books? A. It does not appear on our books.

Q. Well, there is a payment here of \$35,424.66 paid on account. That must appear somewhere. It is a credit item? A. That will have to be looked up, Mr. Hughes, to see from what account that payment was made.

Q. Of course we may assume Mr. Barrington did not pay that amount? A. Yes.

Q. It must have been paid by the Society? A. It must have been.

Q. And also that the item of credit of \$11,694, under date of May 5, 1904, requires explanation, too? A. Yes, sir.

BY MR. ROGERS:

Q. I would like to ask what position Mr. Barrington holds in the Company.

MR. HUGHES: Yes, what is he?

A. He is now an employee, still employed by the Society and now under the direction of the President himself. He does a great deal of our advertising work, such as preparing our little

*Testimony of Henry Rogers Winthrop*

leaflets and pamphlets that we send out to policyholders and agents.

Q. Where was he then employed? A. He was employed then under the fourth vice-president, W. H. McIntyre.

BY MR. COX:

Q. Do you know what his compensation is or was at that time? A. Well, it is that about of a well-paid employee, not an officer.

Q. How much would you say? A. About from \$2,000 to \$2,500. I can get you the exact facts.

BY MR. HUGHES:

Q. In what capacity is he employed? A. Now?

Q. Then? A. Then, as now, he gets up advertising statements and prepares these little things we send out and does a good deal of statistical work in regard to interest earned by trust companies.

Q. Now, the society having paid these amounts in the manner you have described which aggregate \$1,326,096.90 received from time to time payments on account in return? A. Yes.

Q. From whom were those payments received? A. J. P. Morgan & Company.

Q. Direct or through James H. Hyde and associates? A. Well, it would appear from here that they were received from James H. Hyde and associates because some of the payments were made prior to the Equitable taking up the loan from the Trust Company May 12, 1904.

Q. Well, the payments run from October 3, 1902, to November 23, 1904, and according to the statement you have handed me the entire amount was refunded to the Equitable? A. Yes.

*Testimony of Henry Rogers Winthrop*

Q. Then on top of that, on December 13, 1904, the Society received an amount of \$114,500. From whom did it receive that? A. Well, whether it came from James H. Hyde and associates or whether it was from Morgan & Company direct I will have to look up.

Q. You don't know as to that? A. Presumably it was received from James H. Hyde and associates, because that is the way the syndicate agreement was signed.

Q. Who were in this syndicate comprising James H. Hyde and associates? A. In this case James H. Hyde and associates represent the Equitable.

Q. Do you mean that there were nobody else participating with the Equitable? A. I believe not, because the Frick report does not show this syndicate and that report shows all syndicates in which James H. Hyde and associates had participation which was sub-divided.

Q. I don't want either to dispute or confirm the accuracy of that deduction, but entirely apart from what the Frick report shows and does not show, what information have you as to the total amount allotted to James H. Hyde and associates? A. We have no positive information at present. But we will have when Messrs J. P. Morgan & Company reply to Mr. Morgan's letter.

Q. So whether James H. Hyde and associates stood for the Equitable exclusively or for the Equitable and other persons and corporations, you do not know for the moment? A. No.

Q. And whether this profit of \$14,500 was the entire profit to which the Society was entitled, you do not know? A. No.

Q. Have you given me all the papers and memoranda which are on your files relative to this matter? A. Yes, sir.

Q. Consisting simply of the ——. A. Two vouchers and the transcript.

Q. And the letter in regard to the loan and that memorandum attached? A. Yes.

*Testimony of Henry Rogers Winthrop*

Q. Let me refer for a moment to the Pittsburg & Toledo syndicate that we had a moment ago. Have you the syndicate agreement? A. Yes, sir.

Q. What was the purpose of the flotation of these bonds, do you know, to provide money for what purpose? A. I have not read the syndicate agreement even, sir.

Q. This syndicate agreement you show me is under date of June 6, 1904, and you started making your payments on account of what is called the Pittsburg-Toledo syndicate in April, 1901. Now, what is the original agreement that relates to that matter? Is it evidently not that. It is some later agreement in conclusion, I should say.

(No answer.)

Q. Did that, so far as you know, have any relation to the building of a railroad known as the Pittsburg, Toledo & Western Railroad, a twenty-mile road? A. I am not prepared to testify. I will have it all looked up and do so very soon.

Q. What I want to know is what was the enterprise which was affected by that original syndicate on which these payments were started in 1901, whether it was a railroad in course of construction or which at the time of those payments had not been begun? A. This was the railroad that was to give the Wabash Railroad an entrance into Pittsburg.

Q. A connection with the Cross Creek Railroad of West Virginia to the Ohio River, a distance of about twenty miles? A. Apparently.

Q. Are you able to say whether on that transaction in which moneys were advanced by the Equitable in 1901 any actual construction had taken place up to the middle of 1903? A. I don't know, sir.

Q. I would like to have, if you have available, a statement of just what that enterprise was, so we can understand just what the action of the Equitable was in underwriting, to the extent of

*Testimony of Henry Rogers Winthrop*

\$450,000, as I infer it did, prior to April 15, 1901, on which date the first call was made? A. I will have it looked up.

Q. Going on with the list, the next one we have is Western Maryland Railroad syndicate, managers, Vermilye & Co. and George B. Butler & Co. On Friday you were unable to state the allotment.

(Papers handed counsel by witness.)

You are now able to state that there was a participation of \$2,000,000 according to the statement you now hand me? A. Yes, sir.

Q. You say a million of that was received direct from the syndicate managers? A. Yes.

Q. And another million from James H. Hyde and associates? A. Yes, sir.

Q. Can you explain why the allotment was divided in that way? A. I find on October 10, 1902, letters were written to James H. Hyde and associates and to the Equitable Life, each letter calling for—making 60 per cent. call—and each letter stating that the participation was one million.

Q. You find a letter, addressed direct to James H. Hyde and associates, referring to their allotment of one million, and another letter, addressed to the Equitable Life Assurance Society directly, referring to its allotment of one million? A. Yes.

Q. Now, James H. Hyde and associates, having that million, did what with it? A. Allotted it to the Equitable.

Q. The entire amount? A. Yes.

Q. Are you able to state whether any individuals or corporations had any interest in this syndicate after the transfer by James H. Hyde and associates of their million-dollar participation to the Equitable? A. Not now. We will have very soon.

Q. According to the papers you hand me now it would seem whatever James H. Hyde and associates got they transferred it to the Equitable? A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. Retaining nothing? A. Retaining nothing.

Q. And the Equitable, according to the papers you hand me, made all the payments on the two millions? A. Yes, sir.

Q. Paying up the whole two millions? A. Yes, sir.

Q. Then did they withdraw any for investment? A. We withdrew one million of these bonds and we still have one million, I understand, in this syndicate.

Q. I see here a memorandum, under date of October 20, 1902, saying, Interim Certificates of the Mercantile Trust Company of one million each, No. 35, in the name of the Equitable Life Assurance Society, \$550,266.67, and No. 56, in the name of James H. Hyde and associates, \$550,266.67. How did it happen that the certificates were issued by the Mercantile Trust Company? A. They probably were agents of the syndicate managers?

Q. Well, do you know whether that it so or not? A. No, I will have that looked up. It would appear that way from the interim receipts.

Q. What profits were made in this? A. The syndicate is not closed.

Q. Have any profits been distributed? A. Not as yet.

Q. You have ascertained that from the syndicate managers? A. I have asked that of the Mercantile Trust Company, and they informed me the syndicate was not closed.

Q. Did you ask whether any profits have been paid over to any of the participants in the syndicate? A. Informally, yes, and I was told no. We will have all this as soon as Vermilye & Co. and Butler & Co. reply to Mr. Morton's letter.

Q. What other papers have you in relation to this transaction? A. I have the other second call or voucher.

Q. The million dollar bonds that were withdrawn were under the allotment to the Equitable direct? A. Yes, sir.

Q. And the million participation that is still outstanding, were those allotted to James H. Hyde and associates? A. Yes.

*Testimony of Henry Rogers Winthrop*

Q. Have you any memorandum or paper stating that the transfer has been made from James H. Hyde and associate to the Equitable? A. An assignment, do you mean?

Q. Yes. A. Nothing but the assignment of the interim receipts.

Q. That has been done? A. We have that now in our vault.

Q. When was that made? A. That was made—when the payment was made the Society received the interim receipt.

Q. Were the million dollars allotted to James H. Hyde? A. Yes, on the first 60 per cent. call and then later on the 40 per cent. call.

Q. When was the first payment made when that transfer was effected? A. October 20, 1902, 60 per cent. call.

Q. And that is all the information you have on that matter? A. Yes.

Q. Now we come to Chicago & Northwest Railway Company General Consolidated 3½%, managers Kuhn, Loeb & Co.

(Papers handed to counsel by witness).

That was allotted originally to the Mercantile Trust Company?

A. And which was afterwards transferred entirely to the Equitable Life.

Q. Are there any corporations or individuals connected with the Equitable in that participation? A. Not that I know of—. No, there are none in this contract, because we have this entirely direct.

Q. Do you know what persons connected with the Society are also members of the syndicate? A. No, sir.

Q. What papers have you relating to this?

(Papers handed to counsel by witness.)

*Testimony of Henry Rogers Winthrop*

Q. From this correspondence that you show me, running from July 9th, 1897, to February 9th, 1903, it appears that General Fitzgerald, as president of the Mercantile Trust Company, requested from Kuhn, Loeb & Company a participation to the extent of two millions; that Kuhn, Loeb & Company gave a participation of \$1,250,000, and that I understand was subsequently transferred to the Equitable Society and profits were paid by Kuhn, Loeb & Company upon that participation to the Equitable, one of \$25,000 on December 19th, 1900, and another of \$19,138.62 on February 9th, 1903? A. Yes.

Q. Have you satisfied yourself that those are all the profits to which the society was entitled? A. We are informed by Kuhn, Loeb & Company that toward the end of December, 1898, a check drawn to the order of the society for \$12,500 was sent to us. We are now having the expert accountant trace that check, if possible.

Q. You have not so far been able to find any records of the proceeds of that check having been placed to the credit of the society's account? A. No, sir.

Q. Did these profits to the amount of \$25,000 and \$19,138.62 pass to the credit of the Equitable Society? A. They were turned over to the George H. Squire trustees account.

Q. The same account to which you have hitherto referred? A. Yes.

Q. Do I understand that the checks for those profits were endorsed payable to George H. Squire, trustee, by the Equitable Life Assurance Society? A. I have not seen the checks.

Q. But you understand they were to the Equitable's order? A. The checks were drawn to the Equitable's order.

Q. Are these all the papers? A. There is the voucher.

Q. I find in the letter of Kuhn, Loeb & Company, November 24th, 1902, in the call upon you for \$481,458.33 in payment of 500,000 bonds, 40 per cent of your participation, a statement at



*Testimony of Henry Rogers Winthrop*

the end, "The bonds you receive are to remain syndicated under our control." Those did remain in that shape? A. Yes, sir.

Q. And were subsequently turned back to Kuhn, Loeb & Company? A. Fourteen days later.

Q. And they repaid you the amount you had paid? A. Yes.

Q. And they were sold by them as the syndicate managers, and the profits you have spoken of paid to the society as they are there? A. Yes.

Q. Have you given me all the information you have about that matter? A. I think you have seen those two letters?

Q. Yes. A. Those are all I have got.

Q. Before we leave it, I will put in evidence the statement you have furnished me showing the entire profits on the transaction, which the society should have received, to be \$56,638.62? A. That is, as furnished to us by Kuhn, Loeb & Company.

(Paper marked Exhibit No. 176.)

Q. Now, we come again to the Union Pacific preferred stock syndicate, Kuhn, Loeb & Company. What information have you regarding that?

(Papers handed to counsel by witness).

Q. You hand me a letter or a copy of a letter dated January 2, 1903? A. That copy is also attached to the first voucher which is in the Cashier's Department.

MR. HUGHES: I offer that in evidence.

(Marked Exhibit No. 177.)

MR. HUGHES reads Exhibit No. 177.

*Testimony of Henry Rogers Winthrop*

Q. Where is the original of that letter? A. In Mr. Hyde's possession.

Q. Do you find a copy of it on any of the letter-press copy-books of the Equitable Society? A. Well, I have not looked, because we found a copy of it on the first voucher relating to the syndicate.

Q. I should like you to look and see if you find a copy of that in any of the letter-press copy-books of the society, or in any of their files other than you have stated. Now, the copy you say is annexed to the voucher, which is the voucher for the check of \$500,000 given to Kuhn, Loeb & Co. under date of January 22, 1903, for first payment? A. Yes.

Q. That check was drawn to the order of Kuhn, Loeb & Co. and signed by the Equitable Life Assurance Society? A. Yes.

Q. Now, have you the next voucher? A. Yes.

Q. This voucher has annexed to it a letter which I will offer in evidence.

(Marked Exhibit No. 178.)

MR. HUGHES reads Exhibit No. 178.

Q. Reference is made there to a preceding communication of January 20th, have you a copy of that? A. No, I have not got it here.

Q. Apparently that first communication was the call of \$500,000 paid by your check on January 23, 1903, as stated in the voucher already mentioned? A. Yes.

Q. Now, on receipt of this letter by Mr. Hyde, do I understand that the Equitable honored the call by paying \$900,000 to Kuhn, Loeb & Co. and receiving certificates for 9,000 shares of stock in the name of Kuhn, Loeb & Co. endorsed in blank?, A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. The certificates for the 5,000 shares of stock of the prior payments were also in the name of Kuhn, Loeb & Co.? A. Yes, sir.

Q. And endorsed in blank? A. Yes, sir.

Q. Were they in the name of Kuhn, Loeb & Co. as a firm or in the name of employees of Kuhn, Loeb & Co.? A. I think they are in the name of Kuhn, Loeb & Co., in that way. Yes, they are in the name of Kuhn, Loeb & Co.

Q. Was any acknowledgment of the check of \$900,000 from the Equitable received from Kuhn, Loeb & Co.? A. The certificates.

Q. Nothing else? A. No, sir.

Q. Now, what was the next transaction? A. July 26th.

Q. There was a letter on July 22, 1904, addressed by Kuhn, Loeb & Co. to Mr. Hyde relating to this matter? A. Yes, sir.

MR. HUGHES: I offer that in evidence.

(Marked Exhibit 179 and read by Mr. Hughes.)

Q. Now, when that request was received by Mr. Hyde, a voucher was drawn for a check to the order of Kuhn, Loeb & Company for the amount requested, \$270,000? A. Yes, sir.

Q. And as in the other cases that voucher showed an authorization of the purchase by George H. Squire as financial manager, and William H. McIntyre as fourth vice-president? A. Yes, sir.

Q. And thereupon a check was given by the Equitable Life Assurance Society to Kuhn, Loeb & Company for \$270,000? A. Yes, sir.

Q. And then certificates of stock for 3,800 shares were received by the Equitable Society from Kuhn, Loeb & Company in the name of Kuhn, Loeb & Company and endorsed by them in blank? A. Yes.

Q. Do you know what was done in the actual physical trans-

*Testimony of Henry Rogers Winthrop*

mitting of those certificates? Were they brought to the Equitable Society or to anyone representing the Society by a representative of Kuhn, Loeb & Company or by Mr. Hyde? A. Well, at that time Mr. Hyde was an officer of the Society, so that whether they were delivered to him personally or as an officer of the Society I don't know.

Q. Well, you don't know that they were delivered to him at all, do you? A. No.

Q. You don't know to whom they were delivered, in fact? A. No.

Q. Now, following that, I find a letter under date of July 26, 1904, from Kuhn, Loeb & Company to Mr. Hyde, which I offer in evidence.

(Marked Exhibit 180 and read by Mr. Hughes.)

Q. Now, as a matter of fact, Mr. Hyde had not given his check for \$270,000, but the Equitable had given its check for \$270,000? A. Yes, sir.

Q. And, as a matter of fact, the letter referred to was a letter to Mr. Hyde and not a letter to the Equitable, as we have just seen? A. Yes, sir.

Q. Now, do you know how the check for \$270,000 was sent to Kuhn, Loeb & Company? Was there a letter accompanying it? A. Not that I know of.

Q. Or is there any record on the files of the Equitable of a letter addressed to Kuhn, Loeb & Company accompanying these payments, or any of them? A. I don't think so.

Q. What is this memorandum that I find here? Whose handwriting is that and where does it come from? A. Why, that is a memorandum prepared by the security department that goes to the cashier; just for the sake of making an entry, how it is to be entered up in the cashier's books.

*Testimony of Henry Rogers Winthrop*

Q. Well, these calls were addressed, as we have seen, to Mr. Hyde, upon the books of the Society; the transaction was treated as a transaction of the society? A. Yes, sir.

Q. What further information have you relating to this matter? A. I have the last call. I have copies now of the letters addressed by Messrs. Kuhn, Loeb & Company to James H. Hyde, and a copy of Mr. Hyde's letter to Mr. Morton, a copy of the assignment of Hyde to the Equitable, a copy of a letter addressed by Mr. Morton to Messrs. Kuhn, Loeb & Company, and Messrs. Kuhn, Loeb & Company's answer thereto.

MR. HUGHES: I offer these in evidence.

(Letter from James H. Hyde to Mr. Morton, marked Exhibit 181, and read by Mr. Hughes.)

MR. HUGHES: Also the assignment annexed.

(Marked Exhibit 182 and read by Mr. Hughes.)

Q. Prior to that, as I believe you stated the other day, you have been unable to find any record of any document transferring the interest to the Society? A. No, sir.

MR. HUGHES: I offer this in evidence.

(Marked Exhibit 183 and read by Mr. Hughes.)

Q. After the receipt of that letter there was a check drawn by the Equitable Life Assurance Society for \$250,000 to the order of Kuhn, Loeb & Co. and sent to Kuhn, Loeb & Co.? A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. Do you know who sent it, whether it was the Society direct or Mr. Hyde? A. I took it over there.

Q. You took it over there? A. Yes, sir.

Q. Who did you see? A. Well, I really don't remember. I am over there quite a good deal. I saw some member of the firm and redeemed the certificates.

Q. In the name of Kuhn, Loeb & Co.? A. Endorsed in blank.

MR. HUGHES: I next offer this letter of July 18, 1905, from Mr. Morton to Kuhn, Loeb & Co.

(Marked Exhibit 184.)

THE WITNESS: I would like to state that I recognize the Equitable as being a party to this syndicate, and that they only recognized James H. Hyde.

Q. That was on July——. A. About, yes—August, 1905.

Q. 1905? A. This year.

MR. HUGHES: The letter, Exhibit 184.

MR. HUGHES: I will offer the reply of Kuhn, Loeb & Co. to this letter, dated July 1, 1905.

(Marked Exhibit 185 and read by Mr. Hughes.)

Q. Has the Equitable Life Assurance Society or any officer thereof, received any further communication from Kuhn, Loeb & Co. as to the decision arrived at in the matter? A. I believe not.

Q. Have you a copy of the syndicate agreement? A. I have not, sir. One will be produced by Mr. Schiff later.

*Testimony of Henry Rogers Winthrop*

Q. Have you now stated all that appears upon the books of the Society with regard to this syndicate? A. Yes, sir. You asked to have the checks brought up.

Q. You have the checks here and they are all checks drawn by the Equitable Life Assurance Society to the order of Kuhn, Loeb & Company? A. One isn't here, one drawn to the order of Kuhn, Loeb & Company. The accountants have it. I will bring it tomorrow, if necessary.

Q. It is in the same form as these? A. Absolutely the same.

Q. Now, the next syndicate on the list is Southern Railway notes, series C syndicate. You were unable on Friday to state the amount of the participation. What is it? A. \$250,000 allotted to James H. Hyde and associates, and in turn allotted in full to the Society.

Q. And the managers were whom? A. Messrs. Blair & Co.

Q. How did you know that James H. Hyde and associates had a participation of \$250,000 and allotted the full amount to the Society? A. We have the letter of Blair & Co. offering James H. Hyde and associates participation of that amount.

Q. A letter under date of March 9, 1903, which you now produce? A. Yes, sir.

Q. So far as you know did any individuals connected with the Equitable have any interest in that syndicate? A. We have written to Messrs. Blair & Co. so inquiring.

Q. A call was made on March 11, 1903, it appears from your statement, of \$62,500. That was paid and subsequently returned, was it not? A. Yes.

Q. Were there any profits made in that transaction? A. A check was received for \$2,198.46, which was credited to profit and loss on the books of the Society.

Q. From whom was that check received? A. From Blair & Co.

Q. On that? A. Well, it came from—it may have been drawn

*Testimony of Henry Rogers Winthrop*

to the order of James H. Hyde and associates and endorsed over to the Society.

Q. You don't know as to that? A. No. That wouldn't show on our ledger.

Q. Have you taken steps to ascertain whether the Society has got all the profits to which it is entitled? A. We have. We have asked them for a statement.

Q. Have you any other papers relative to the matter? A. Not to this syndicate, no, sir.

Q. The next syndicate is International Navigation Company First Mortgage Bond syndicate. We had that under inquiry the other day, and the price at which the Equitable obtained the securiteis was commented upon. I believe it was 92½. A. Yes, sir.

Q. Can you state what the character of that syndicate was? A. This syndicate was formed by Mr. J. P. Morgan & Co. to furnish the bankers such cash sums as in the aggregate shall not exceed \$5,855,250 to make payments for the purchase of \$6,330,000 of the First mortgage bonds of the International Navigation Company of New Jersey, the name of which has been changed to the International Mercantile Marine Company at 95 and interest, less a commission of 2½ per cent.

Q. Is that the same syndicate that is known as the Navigation syndicate or the International Mercantile Marine syndicate? A. No.

Q. What is the difference? A. Why, this is to authorize a small issue of first mortgage bonds.

Q. Of some six millions? A. Yes.

Q. And what was the other syndicate? A. I haven't got the syndicate——. I don't know what the exact purpose was; it is not the same syndicate, however.

Q. Well, that was a syndicate to float the bonds which were issued in the acquisition by the International Mercantile Marine



*Testimony of Henry Rogers Winthrop*

Co. of the stocks and interest in various companies, steamship companies, was it not? A. Yes, sir.

Q. Did the Equitable have any interest in that syndicate? A. Not as shown on these sheets.

Q. Well, so far as you know is it shown anywhere? A. We will show an interest later, yes, sir.

Q. Well, you mean that there is something——. A. We are in course of preparation of that.

Q. Well, that isn't mentioned here? A. No, not on that.

Q. Well, is there anything that you are able to say now, or do you wish to wait until you have got it——. A. Well, we have all that prepared, I think, by to-morrow.

Q. Now, tell me what papers you have relative to this other syndicate that was to float the \$6,000,000 bonds of the International? A. We have a letter addressed to James H. Hyde and associates from J. P. Morgan with regard to it.

Q. A letter dated March 20, 1903, from which it appears that James H. Hyde and associates were subscribers to the syndicate of \$500,000 bonds at 92½ and interest? A. Yes, sir.

Q. Now, how much of that allotment was paid over to the Equitable Life? A. The entire amount, \$500,000.

Q. So, that, so far as you know, James H. Hyde, individually or any corporation or individual associated with him, retained no interest in that? A. We had his entire participation, and we have written to Messrs. J. P. Morgan asking if that was the entire allotment.

Q. Have you had any answer? A. Not as yet.

Q. And the Equitable put up the entire amount called under that and withdrew its bonds, as so explained by you on Friday? A. Yes, sir.

Q. At 92½? A. Yes, sir.

Q. There being no profits because of the withdrawal? A. Yes, sir; we withdrew the bonds.

*Testimony of Henry Rogers Winthrop*

Q. Will you let me see what other papers you have in that matter? A. Here are the vouchers and the syndicate agreement.

Q. The syndicate agreement is under date of January 24, 1903? A. Yes, sir.

Q. The other syndicate, International Mercantile Marine or Navigation Syndicate, was to float 50,000,000 of an authorized issue of 75,000,000 of bonds? A. Yes, sir.

Q. And this one to which you have just referred was to float 6,000,000 of bonds? A. 6,000,000 of bonds.

Q. Now, the next syndicate is Union Pacific 1½-year five per cent. note syndicate. You now find that the managers were Kuhn, Loeb & Co., and that the Equitable Life received a participation direct from them of \$350,000, is that right? A. Yes, sir.

Q. Did James H. Hyde and associates have anything to do with that? A. No, sir.

Q. Any individuals connected with the Equitable Life interested in it? A. We had this participation direct and we have written and inquired if anyone else had.

Q. So far you have no information that they had? A. Not as yet.

Q. The Equitable Life paid the checks? A. Yes, sir.

Q. Got the money that they paid back and later got a profit of \$2,625? A. Well, we withdrew from the syndicate our participation at cost, but as the managers had an option on a future purchase of bonds—but as they had an option on the purchase of Oregon Short Line bonds, deposited as collateral of the notes, that option was sold, and so the society received as its share a profit of \$2,625.

Q. Have you found out whether that is all the profit to which they are entitled? A. It is.

Q. What papers have you? A. The two vouchers.

*Testimony of Henry Rogers Winthrop*

Q. Anything else? A. Copies of two letters.

Q. These letters that you produce show the facts as to the participation allotted to them directly, and the profits that you have testified to? A. Yes.

Q. And that is all the information you have on that matter? A. Yes, sir.

Q. Now, the next is Combined Syndicate of Philadelphia, Baltimore, Washington & Long Island Refunding 4's? A. We have for convenience sake combined the statements.

MR. HUGHES: I will offer this statement in evidence, and read it on the record.

(Marked Exhibit No. 186, and read by Mr. Hughes.)

Q. That is the statement that you believe to be correct? A. Yes, sir.

Q. Where did the Frick Committee get its information that Messrs. Alexander, Hyde, Squire and McIntyre had the whole allotment of \$600,000 divided among them? A. A letter from James H. Hyde. But that is shown to be inaccurate, because the profits which he testified to that committee as having received show that it was only the profits on \$125,000 participation, not as \$150,000 which he credits himself with.

Q. That is an aggregate profit on \$500,000 divided among the four? A. Yes, sir.

Q. And your books show a profit to the Equitable of the remainder on a participation of \$100,000. How was that profit credited to the Equitable, or upon the books of the Equitable, or charged to it and credited to those who paid it?

THE WITNESS: Repeat that question, will you?

*Testimony of Henry Rogers Winthrop*

Q. How was that booked by the Equitable? A. Oh, credited to profit and loss.

Q. It went upon the books? A. Yes.

Q. Duly accounted for? A. Oh, our profit was duly accounted for.

Q. Have you taken steps to ascertain whether that was all the profit to which they were entitled? A. We have written to Messrs. Kuhn, Loeb & Co. and asked them.

Q. From whom was that profit received? A. Kuhn, Loeb & Company sent their check for the combined profit to James H. Hyde and associates and the society received their proportion from Hyde and associates.

Q. How would such check as that be drawn? By whom? Who attended to the business of James H. Hyde and associates? A. Mr. McIntyre usually.

Q. Didn't he draw his check? A. No. They had a check-book, I believe.

Q. Do you mean they kept an account in the name of James H. Hyde and associates? A. Yes, sir.

Q. Where was that account kept? A. I don't know.

Q. Well, are you sure there was such an account? A. Yes; I am so informed.

Q. Have you any idea for how long a time that account was kept? A. No, sir.

Q. What leads you to say that there was such an account? A. Well, I have just been told so by——.

Q. Mr. Gray? A. Yes.

Q. Well, we will have him presently. Have you any papers further with regard to this transaction? A. The three calls.

Q. The calls being on James H. Hyde and associates? A. Yes, sir.

Q. Now, how much money did the Equitable put up on the

*Testimony of Henry Rogers Winthrop*

calls? A. On the Philadelphia, Baltimore & Washington they put up \$121,200 and on the Long Island \$96,900.

Q. Well, did they put up simply for their \$100,000 interest, or for the whole amount? A. The whole amount.

Q. They put up all that was called on the \$600,000? A. Yes, sir.

Q. Did they get any money from Messrs. Hyde, Alexander, Squire and McIntyre for their pro rata shares of the calls? A. No; money is due the society from those four gentlemen for interest for the time of carrying.

Q. The Equitable put up the money, didn't get any interest, and didn't get the money, of course, so they are entitled to interest upon that? A. Entitled to the interest back.

Q. Has that been brought to their attention? A. It will be.

Q. Well, these calls were made as shown by these letters upon January 7, 1904——. A. I have combined two of them.

Q. From these letters it would appear that two certificates had been issued for the participation, one for \$100,000, which the Equitable had in its own name, one for \$500,000 that James H. Hyde and associates had? A. No; there were two participations, though, one of \$500,000 and one of \$100,000, both in the name of James H. Hyde and associates.

Q. I see. . And calls were made by two demands? A. By two demands.

Q. Corresponding to those two interests? A. Yes, sir.

Q. And when James H. Hyde and associates got these calls they turned them over to the Equitable and the Equitable paid the entire amount of the calls? A. Yes, sir.

Q. Did the Equitable draw their checks in favor of James H. Hyde and associates, or in favor of the syndicate managers? A. In favor of the syndicate managers. The vouchers in each case will show to whom the check was drawn.

*Testimony of Henry Rogers Winthrop*

Q. And the vouchers show they were drawn to Kuhn, Loeb & Company? A. Yes, sir.

THE CHAIRMAN: At the suggestion of counsel to the committee, as he has a considerable amount of material that he desires to get in to-day, the hour of adjournment will be extended for to-night from 4.45 to 5.00 o'clock. Announcement is made at this time so that any gentlemen who may have engagements hinging on the adjournment at 4.45 will be advised.

Q. Now, in a transaction like this, where the Equitable has paid out moneys direct to Kuhn, Loeb & Company on these demands, has it no record which enable it, other than the voucher itself, no book in which the syndicate transaction is stated? A. It appears in the journal and later appears in the account opened for the syndicate.

Q. Yes, but if you went entirely by the papers which you produced here in that way, the vouchers, and did not have the checks for the profits before you you would assume that the Equitable had that entire allotment of \$600,000, they having paid the calls and not having got any money back, just as in the other cases you have found that James H. Hyde and associates turned over the entire participation to the Equitable? A. Yes.

Q. The only difference is that in this case you find that these four gentlemen got shares of the profits, which accounts for five-sixths of the total amount of the profits relating to the allotment? A. Yes, sir.

Q. And then taking that in the statements in Mr. Hyde's letter to the Frick Committee and the Frick Committee Report, you reached the conclusion that you have stated? A. Yes.

Q. Now, the next syndicate that we have is Imperial Japanese Government six per cent. loan syndicate. The managers were Kuhn, Loeb & Company, and you stated in your original list, Ex-

*Testimony of Henry Rogers Winthrop*

hibit 157, that the participation was \$750,000. Have you treated these syndicates together, or this that you are now giving me, this statement, a statement of what may be called the sixes syndicate, six per cent. bond syndicate? A. This is the first six per cent. bond syndicate in which there were two sub-syndicates.

Q. In the first place there were three Japanese issues? A. Three Japanese issues.

Q. One first series 6's, second series 6's, and the third of 4½? A. Well, this refers to the Imperial Japanese Government six per cent. sterling loan, first series.

Q. Issued about what time? A. Syndicate agreement signed June 6, 1904.

Q. Now, in that syndicate you say there were two sub-syndicates? A. Yes, sir.

Q. What was the total participation of the Equitable? A. In the first \$750,000, in the second \$450,000.

Q. Each of those was received from James H. Hyde and associates? A. Yes, sir.

Q. What was the total participation of James H. Hyde and associates? A. \$2,000,000 in the first; \$1,200,000 in the second.

Q. The allotments are stated in the Frick Report? A. And that is the basis of my information.

Q. Don't you find that in the books? A. We find the \$750,000 in our books and the \$450,000.

Q. Allotted to the Equitable Life? A. Only by the profits received. There was no call, so this syndicate never appeared on our books until the Equitable received a check on January 2, 1904, on the second sub-syndicate; a check was received for \$8,784, and on January 11, 1904, as a profit on the first sub-syndicate a check was received for \$9,613.26.

Q. There were no calls and hence no checks given by the Equitable? A. No, sir.

Q. And the only entries upon the books of the Equitable Life

*Testimony of Henry Rogers Winthrop*

Assurance Society are the entries of those profits received? A. Yes, sir.

Q. The rest of your information is derived from Mr. Hyde's letter embodied in the Frick report and the statements of that report? A. Yes, sir.

Q. Have you taken any steps to ascertain whether the society has obtained all the profits to which it is entitled? A. We have written to Messrs. Kuhn, Loeb & Company asking for that information.

Q. I am informed by counsel that in the case of the Philadelphia, Baltimore & Washington and Long Island Refunding 4's that where you stated that interest was due from these gentlemen who were interested in the participation of the Equitable Life under the names of James H. Hyde and associates, that, in fact, interest on the amount paid by the Equitable was paid by Kuhn, Loeb & Company, so that the Equitable got back the amount of interest? A. Yes, sir; I see.

Q. And that the gentlemen who were interested with the Equitable did not have to put up any money, didn't have to pay any interest and don't owe any interest? A. Yes, sir.

Q. But got their share of the profits? A. Yes, sir.

Q. Is this that you have stated with regard to the first series of Japanese 6's all the information you have? A. Yes, sir.

MR. HUGHES: I will offer that statement in evidence.

(Marked Exhibit 187.)

Q. Did the profit on the Japanese 6's go directly to the credit of the Equitable or to the credit of some other account? A. Oh, it was booked on our regular—either to profit and loss or to reduce the cost of the bonds.

Q. Didn't go to the George H. Squire account? A. No, sir.



*Testimony of Henry Rogers Winthrop*

Q. Or any other account? A. No, sir.

Q. And these moneys were received from James H. Hyde and associates? A. Yes, sir.

Q. Now this syndicate of Southern Pacific Railroad first refunding 4's, bond syndicate. Now we come to a period, February of this year, when you find what to be the state of the case? A. In this Southern Pacific Railroad Company first refunding 4 per cent. bond syndicate, managers Kuhn, Loeb & Company and Speyer & Company, James H. Hyde and associates received a participation of \$2,000,000 on the above syndicate which was offered to the society and accepted as follows—and here I state that the minutes of the Executive Committee are now so complete that they will show all these transactions spread in full on the minutes.

Q. When did that practice begin? A. About the first of the year; between the first of the year and the 1st of February, I think.

Q. So that now you can follow from this time on the transactions right in the record? A. Copied right in the official minute book.

Q. State what you find the fact to be. A. Accepted as follows: \$1,250,000 to the Equitable Life, \$500,000 to the Equitable Trust Company and \$250,000 to the Mercantile Trust Company. No money was called, and on March 11, 1905, the Society received a profit on its share of the participation of \$31,054.68.

Q. That profit was received from James H. Hyde and associates? A. Yes, sir.

Q. Do you know whether anyone but the Equitable Life, the Equitable Trust Company and the Mercantile Trust Company connected with the Equitable Life was interested in any way in that syndicate? A. We have written to so ascertain.

Q. You haven't as yet ascertained? A. No, sir.

*Testimony of Henry Rogers Winthrop*

Q. And so far as you know that is a correct statement of the profits? A. I have it here.

Q. You have a statement of the profits addressed to James H. Hyde and associates, a total profit of \$49,687.49, which was divided as follows: To the Equitable Life Assurance Society \$31,054.68, to the Equitable Trust Company \$12,421.87, to the Mercantile Trust Company \$6,210.94? A. Which adds up the total amount. The original letter, being addressed to James H. Hyde and associates, was accepted, signed by him, and we kept the copy of the letter, as it became an Equitable transaction direct.

Q. It didn't become an Equitable transaction direct; he got the profits and divided them and there were no moneys paid?

A. Yes, but we began then to keep the books of James H. Hyde and associates.

Q. That is a complete statement of that transaction? A. Yes, sir.

Q. The next one is Atchison, Topeka and Santa Fe convertible 4's, J. P. Morgan & Co. syndicate managers. That is also a transaction of this year of which your Society has the record. That was received through James H. Hyde and associates? A. Yes, sir.

Q. And the total participation of James H. Hyde and associates was how much? A. \$750,000.

Q. How much of it was made over to the Society? A. The entire amount.

Q. Was any money put up? A. No, sir.

Q. And the Society got a profit of \$12,037.57. Have you taken steps to ascertain whether that was accurate? A. We have a letter.

Q. The syndicate manager's letter? A. Yes. We ought to have that. We have got here the letter showing that is—.

Q. You have here a letter addressed to James H. Hyde and associates, under date of January 30, 1905, giving the partici-

*Testimony of Henry Rogers Winthrop*

pation? A. Yes, sir. We have here the letter which was received with the check, showing it is the entire amount.

Q. At present do you know whether any persons connected with the Equitable Life had any interest in that syndicate? A. We have written to so ascertain.

Q. The next syndicate is United States of Mexico 4 per cent. gold bonds. Just state the facts briefly. Have you a duplicate? A. Here is the original, Mr. Hughes. The managers of this syndicate were Speyer & Co. James H. Hyde and associates had a participation; amount is unknown; in the original purchase syndicate and also a participation in the second syndicate known as the United States of Mexico 40,000,000 4 per cent. bonds, the 1904 syndicate. The Society received the entire participation of James H. Hyde and associates.

Q. What date was that? A. Why, they received it when the checks came in from Speyer & Co.

Q. When was that? A. The checks—about April 12, 1905. James H. Hyde wrote letters to the Society enclosing checks.

Q. For those amounts? A. For those amounts.

Q. And those you are informed are the entire profits? A. Yes, sir.

Q. Were those checks of James H. Hyde and associates? A. No, sir; Speyer & Co.'s checks.

Q. Were turned over directly? A. Directly.

Q. Endorsed over? A. Yes, sir.

Q. Did you get the check books of James H. Hyde and associates when— A. No, sir.

Q. —the change in the manner of keeping the accounts took place? A. No, sir.

Q. Did you ever ask for them? A. No, sir.

Q. Do you know where they are? A. No, sir.

Q. The next is Imperial Japanese Government 4½ per cent. loan syndicate. Are you prepared to say that the Equitable was

*Testimony of Henry Rogers Winthrop*

not interested in the second series Japanese syndicate, the second series of 6's? A. Have you got the Frick report? If I look at that I can tell you in a minute. (Witness refers to Frick report.) It doesn't appear on our books.

Q. As far as you know the Equitable itself had no participation in that, although it appears in the Frick report some of its officers had? A. Yes.

Q. And the Equitable was a purchaser of bonds? A. Yes, sir.

Q. Now, the next syndicate in which the Equitable itself had a participation was the Imperial Japanese 4½ Loan, managers Kuhn, Loeb & Co.? A. Yes, sir.

Q. State the facts of that, please? A. The Society received a participation direct on March 23d of 800,000 pounds in the above-named syndicate and allotted in that participation 160,000 pounds to the Equitable Trust Company and 80,000 pounds to the Mercantile Trust Company, all of which appears on the Executive Committee records. Here is Kuhn, Loeb & Co.'s letter to us.

MR. HUGHES: I offer that in evidence.

(Marked Exhibit 188 and read by Mr. Hughes.)

Q. Now, what reply was made to that letter (letter produced by the witness).

MR. HUGHES: I offer the reply in evidence.

(Marked Exhibit 189 and read by Mr. Hughes.)

Q. Now, the acceptance of that offer was authorized by the Executive Committee? A. Yes, sir.

*Testimony of Henry Rogers Winthrop*

Q. And appears upon your minutes supporting your action upon such acceptance? A. Yes, sir. We then notified——

Q. What did you do then? A. We then notified the Mercantile and the Equitable Trust companies of their allotments.

Q. And these are their notifications? A. Yes, sir.

MR. HUGHES: I offer them in evidence.

(Marked Exhibits 190 and 191.)

THE WITNESS: We also notified the Security Department giving them a copy of the Executive Committee resolution.

MR. HUGHES: The transfer of the allotments follows:

A. To which those replies were received (handing papers).

Q. And replies were received in each case under date of April 24, 1905, respectively from the Mercantile Trust Company and the Equitable Trust Company, accepting those allotments? A. Yes.

Q. What authorization had you for giving to those companies such part of the Equitable participation? (Minute book produced by witness.) At a meeting of the Committee held on April 7, 1905, present Messrs. Snyder, Deming, Krech, Frick, the President, Vice-President, Second Vice-President, Third Vice-President, Fourth Vice-President, Comptroller and Secretary of the Committee, on the Committee being notified that Messrs. Kuhn, Loeb & Co. had advised the Society that they had allotted to them 500,000 pounds Japanese  $4\frac{1}{2}$  Sterling loan, due February, 1925, instead of 1,000,000 pounds. In behalf of the Society the Equitable Trust Company and the Mercantile Trust Company have subscribed for, it was on motion resolved that the same be accepted, 370,000 pounds of the same for the

*Testimony of Henry Rogers Winthrop*

account of the Society, 100,000 pounds to the account of the Equitable Trust Company, and 50,000 pounds for the account of the Mercantile Trust Company, and further that the Society should take advantage of the privilege of paying for the same in full on April 25th, thereby getting the benefit of the deduction in price of 98 for each 100 pounds' bond allotted. I am now informed that that relates to the public subscription.

Q. Well, that which you have just read is the sole authorization for the giving to the Mercantile Trust Company and the Equitable Trust Company shares in the Equitable's participation which it had accepted? A. I am positive that that was passed at the meeting, and I can produce the memorandum minutes from which these were written, to prove it.

Q. But you know it was authorized at the meeting at which those gentlemen were present. What was the date of it? A. No, it may have been authorized at the previous meeting.

Q. Give me the exact facts as to who were present. A. Yes.

Q. Were any calls made upon the subscribers? A. No, sir.

Q. So that the Equitable received the 800,000 pounds participation, accepted it and gave these participations of 80,000 pounds and 160,000 pounds respectively to the two Trust Companies, put up no money upon account of the subscription and subsequently got a profit? A. Yes.

Q. The profit was paid over to the Equitable Society, being for \$100,616.20, was it not? A. Yes.

Q. That was a check from Kuhn, Loeb & Co. to the Equitable Society? A. Yes.

Q. Then the Equitable Society kept \$70,431.34 as its part of the profits and divided the residue between the Equitable Trust Company and the Mercantile Trust Company as their shares upon the allotments which had been given to them? A. Yes, sir; on June 5th.

Q. Is that right? A. Yes.

*Testimony of Henry Rogers Winthrop*

Q. Now, then, when those bonds were offered by Kuhn, Loeb & Co. to the public, the Equitable Life Assurance Society—I am now speaking of the foreign one-half Japanese bonds—became purchasers of them? A. Yes. They are on the record before that authorization of the division.

Q. If you will read it, read it now. A. "The committee met on June 5, 1905. Present, Messrs. Depew, Snyder, Deming, Krech, the President, Vice-President, Third Vice-President, Fourth Vice-President, Comptroller, and Secretary of Committee. A letter dated May 31, 1905, from Messrs. Kuhn, Loeb & Company to the society, enclosing check for \$100,616.20, being final payment of the society's interest in their proportion of the profits realized in the Imperial Japanese Government  $4\frac{1}{2}$  per cent. Sterling Loan syndicate, was read, and it was on motion resolved that the same be accepted and distributed as follows: \$70,431.34 to be placed to the profit and loss account of the Equitable Life Assurance Society, being their profit in their participation of 560,000 pounds. \$20,123.24 to be paid to the Equitable Trust Company on account of their participation of 160,000 pounds. \$10,061.62 to be paid to the Mercantile Trust Company on account of their participation of 80,000 pounds."

Q. Now that is not the authorization of the original allotment to the Equitable and Mercantile Trust Companies of the portion allotted to them respectively of the Equitable share in the syndicate, but in the arrangement or authorization of the division of the profits derived from that syndicate. When you find the other we will put it on the record. In the meantime, let me ask you if the Equitable Life Assurance Society when these Japanese  $4\frac{1}{2}$  per cent. bonds were put upon the market by the managers of the syndicate, did not become purchasers of those bonds to a large extent? A. I believe we did, but I think that the bonds we purchased—I would like to look this up to be sure—that we purchased bonds and that we gave a portion of our purchase to the

*Testimony of Henry Rogers Winthrop*

two trust companies in proportion to the syndicate participation also allotted to them.

Q. If you did that I should like to have the fact appear. What I note here on your list of purchases is this under date of March 29, 1905: Imperial Japanese Government  $4\frac{1}{2}$  per cent, 250,000, amount paid \$250,000 to Kuhn, Loeb & Company? A. Yes.

Q. And further, on April 25, 1905, Imperial Japanese Government  $4\frac{1}{2}$ , due 1925, \$2,500,000 par at \$2,184,375 from Kuhn, Loeb & Company? A. That is correct.

Q. I find in your list of sales of securities for 1905 a statement as follows: April 25, Imperial Japanese  $4\frac{1}{2}$ , 1925, \$250,000, sold at par to Kuhn, Loeb & Company. A. Those are not the same bonds.

Q. I don't understand that. They are the same bonds. A. That is the first payment on the bonds.

Q. I thought there were no payments on the syndicate? A. Not on the syndicate, but on the bonds subscribed for.

Q. Well, how many bonds did you subscribe for, that is the matter you referred to a minute ago? A. Yes, sir; we subscribed for 1,000,000 pounds, and we only received instead 500,000.

Q. When did you subscribe 1,000,000 pounds of those bonds? A. It was authorized on April 10th.

Q. Well, that was about the time that you got your allotment in the syndicate? A. Yes, sir.

Q. And that was a subscription to take the bonds upon the public offer? A. Yes, sir.

Q. And how many did you take as a matter of fact? A. We took direct from Kuhn, Loeb & Company 500,000 pounds and of that 500,000 pounds we gave 100,000 pounds to the Equitable Trust Company and 50,000 pounds to the Mercantile Trust Company in the same proportion as their syndicate participation.

Q. But you retained for yourself— A. 350,000 pounds.

Q. Then you proceeded to sell those that you retained very



*Testimony of Henry Rogers Winthrop*

quickly, did you not, in June, 1905? A. We sold them as soon as we got a profit on them. Sold \$1,000,000 par for \$889,716.

Q. And then on June 13th you sold \$750,000 for \$667,389? A. Yes, both to the firm of Alexander Thomas & Davis.

Q. And those were in the market? A. Yes.

Q. That was practically all that you had, that you had kept? A. Yes, I don't think that we have any of those now. We took our profits.

Q. By buying them and selling them? A. Yes.

Q. Do you know what the Equitable Trust Company and Mercantile Trust Company did? A. Whether they sold them or not?

Q. Yes. A. I do not. I can find out.

Q. And you made a profit by the transaction? A. Yes.

Q. Now, is there anything else you can tell me about that syndicate, have I seen all the papers that you have relating to it? A. I think so.

Q. The next syndicate is Pennsylvania Railroad 3½'s convertible bonds syndicate. Managers, J. P. Morgan & Company and Kuhn, Loeb & Company. Did you get the allotment direct from the syndicate managers? A. Let me have that minute book, the last one. We got those direct.

Q. Did James H. Hyde and associates have anything to do with it? A. No, sir.

Q. Did any individual or any officer connected with the Equitable Life have anything to do with that syndicate or participate in it? A. We have written to ascertain that fact.

Q. You don't know that they had? A. No, sir.

Q. Did you put up money on call? A. This is an open syndicate and we put up—we have not prepared one of these new sheets—this shows everything.

Q. You put up \$2,741,500? A. Yes.

Q. Some of which you have got back? A. Some, at various times.

*Testimony of Henry Rogers Winthrop*

Q. And it is not closed? A. It is still open.

Q. You have referred to an account of George H. Squire, trustee? A. Yes.

Q. Have you any book in the possession of the Equitable Life Assurance Society showing the transactions carried on under that name or in that account? A. We have found a copy book of what appears to be an account—what appears to be a statement of this account.

Q. Is this the book (indicating)? A. Yes, sir.

MR. HUGHES: I ask to have that marked for identification.

(Marked Exhibit 192 for identification).

Q. In whose custody was this book? A. Mr. Squire's.

Q. Well, you found it in your office? A. It was left among a lot of papers and memoranda which we found.

Q. This is a debit and credit with entries to the credit of the account purporting to be the proceeds of various securities and of interest in syndicates et al.? A. Yes, sir.

Q. Then there are certain debits or drafts. Do you understand that this is a statement of the George H. Squire, trustee account? A. I so believe it to be.

Q. This account appears to have begun on April 11, 1900, and the first item I find to the credit is "Proceeds of \$7,000 R & T 6's at 73 less  $\frac{1}{8}$  per cent commission. What are R & T 6's? A. Rope and Twine.

Q. Does the Equitable Life Assurance Society own any Rope and Twine? A. No, sir.

Q. Did it ever get any Rope and Twine as bonuses in any way that you know of? A. Not that I know of.

Q. Do the records of the Equitable show that it ever had any dealings in Rope and Twine? A. Not so far as I have been able to ascertain.

Q. That is in the securities known as Rope and Twine? A. No, sir.

*Testimony of Henry Greaves*

Q. What are these proceeds of Rope and Twine on and also below shares and income? A. They are evidently the securities which were held for the account of George H. Squire, trustee.

Q. Do you know where he got them? A. No, sir.

Q. Now, after two entries of proceeds of Rope and Twine under date of April 16th, we find accrued interest on script. Do you know what that is? A. No, sir, unless it refers to Rope and Twine script or something of that kind.

Q. Then, after a number of entries relating to shares of Rope and Twine and proceeds and income we find September 11, 1900, proceeds of profit Audit Company. Does the Equitable Life Assurance Company have any Audit Company stock? A. I believe not.

Q. Who kept this book A. Henry Greaves.

MR. HUGHES: Please step aside, Mr. Winthrop, and Mr. Greaves take the stand.

HENRY GREAVES, called as a witness, being duly sworn, testified as follows:

BY MR. HUGHES:

Q. Where do you reside, Mr. Greaves? A. Brooklyn, New York.

Q. What is your occupation? A. Clerk in the Equitable Life.

Q. How long have you been there? A. About eleven years and a half.

Q. In what department have you been since the beginning of 1900? A. Finance Department.

Q. Under whose supervision were you prior to the 1st of January of this year? A. Mr. George H. Squire nearly all the time.

*Testimony of Henry Greaves*

Q. And his office during that period was what? A. Known as the Finance Department.

Q. What work did you do in that department under him? A. I kept track of offers of securities made to the Society—in fact, at first I was his only clerk and stenographer and did everything.

Q. For how long a time was that, for what period? A. I think from about the latter part of 1899 to the——. I don't think it was quite a year. I went away on my vacation the following summer, and when I came back they had a stenographer.

Q. Then what did you do? A. Then I kept track of all offers and bids made to the Society on securities purchased in a memorandum book which we kept in our office, so in looking up the facts to put before the Committee we would be able to get them without having to go down to the regular books of the Society.

Q. You refer now to what Committee? A. The Executive Committee.

Q. I show you this book which has been produced marked Exhibit 192 for identification and to the heading, George H. Squire, trustee and the accounts kept thereunder. Is that your handwriting? A. Yes, sir.

Q. At whose direction did you make the entries therein? A. George H. Squire.

Q. From what data did you get the matters you entered therein? Take the debits, for example; where did you get the information that you entered in the book? A. That was from Mr. George H. Squire.

Q. In writing or orally? A. Orally. I do not think that I have any documents showing that.

Q. I call your attention to this credit entry under the head of George H. Squire, trustee, beginning with April 11, 1900. Do those credits correspond to deposits made to the credit of that account?

(Witness produces book.)

*Testimony of Henry Greaves*

Q. What book is this you produce? A. It is the deposit—a book used in the American Deposit & Loan Company showing deposits made and withdrawn.

Q. Is that the bank book of George H. Squire, trustee? A. It is one of them.

MR. HUGHES: Mark that for identification.

(Book marked Exhibit 193 for identification.)

Q. And this bank book, Exhibit 193 for identification, opens with a credit under date of October 27, 1900, to George H. Squire, trustee, in his account with the American Deposit & Loan Company of \$36,030.98. Do you know from what that deposit was derived? A. Well, I think that I have the different items entered in this book showing it, but it is not footed, but I think that I can probably find it.

Q. Prior to October 27, 1900, was there an account kept anywhere in the name of George H. Squire, trustee? A. Not that I know of.

Q. Where were these moneys that I referred to under earlier date in this Exhibit 192 for identification deposited? A. I think they were all—the checks I know in nearly every case were given to Mr. Jordan, the comptroller, and presumably he held them until he got a sufficient amount and from the passbook, I think, when he got this first amount he deposited it all in one lump sum.

Q. You mean that Mr. Jordan held these checks which were received from April 11th to October 27th, inclusive, without depositing them anywhere? A. That I don't know.

Q. That is what you meant when you made the statement a moment ago? A. Well, I meant before he deposited them to the George H. Squire, trustee, account.

*Testimony of Henry Greaves*

Q. If he deposited them anywhere else he would have had to draw a check against them for this amount? A. Probably.

Q. So, did you mean a moment ago to imply that he kept the checks themselves without depositing them anywhere or that he deposited them somewhere and then drew a check for the total to the order of George H. Squire, trustee, account, when this account was opened? A. Either one of those.

Q. Do you know which one was done? A. I do not.

Q. Did you have anything to do with the actual making of those deposits by Mr. Jordan or Mr. Squire? A. No, sir, all I did was to receive the checks and then on a voucher, as I would get the voucher, I would write "Check given to Mr. Jordan, such and such a date," with my initials.

Q. Let me see some. You produce a voucher under date of April 11, 1900, to George H. Squire, Esq., by Williamson & Squire, Johnson Building, 30 Broad Street, 7,000 Rope & Twine 6's at  $73\frac{7}{8}$ , \$5,121.25. That is the way in which the voucher came to you? A. Yes.

Q. And it came to you with a check from Williamson & Squire for that amount? A. When I say it came to me, it came, of course, to Mr. Squire.

Q. Yes, of course, it came to the office. It came to you from Mr. Squire with a check from Williamson & Squire for that amount? A. Yes.

Q. And the check was drawn to whose order, do you remember? A. I do not. Presumably George H. Squire, following the bill.

Q. Who were Williamson & Squire? A. Stock brokers.

Q. Is Mr. Squire of Williamson & Squire a relation of George H. Squire? A. A son.

Q. What is his name? A. George H. Squire, Jr.

Q. What Williamson is this? A. I don't know any particulars about Williamson, except that he is a partner.

*Testimony of Henry Greaves*

Q. Is he a relative of Mr. C. F. Williamson, formerly connected with the Equitable Life? A. Oh, not that I know of; I don't know if he is.

Q. Whose handwriting is that voucher? A. That is probably someone in Williamson & Squire's office.

Q. When you would get this voucher and that check would Mr. Squire endorse it? A. Very probably.

Q. In blank or in full? A. I really could not say as to that.

Q. But it was endorsed in such a way that Mr. Jordan could get the money, because you handed the check to Mr. Jordan? A. Mr. Jordan. It may have been endorsed for deposit to George H. Squire, Trustee Account, so far as I know.

Q. Well, it was not opened at this time. We are now in April, several months before the Squire, trustee, account was opened.

A. Before it was opened in the bank and my books show it was opened at this time.

Q. You had no bank account at that time? A. No.

Q. So that it was given to Mr. Jordan in such a way that he could get the money, of course, the checks were endorsed? A. Yes.

Q. At any rate, you gave the check to Mr. Jordan and made a memorandum to that effect? A. Yes.

Q. And you entered the fact of that receipt in this book. A. Yes.

Q. What did you do about those Rope & Twine transactions, which seem to have run over a considerable period? A. At that time I knew nothing at all about it.

Q. Haven't you learned anything since about it? A. Within the last week or so our accountants hired by the Equitable, now going over our affairs—I saw their memorandum and it appears to have been at one time a collateral to a loan made to Mr. John E. Searles, and as far as I was able to judge, what I learned from

*Testimony of Henry Greaves*

the accountant, that loan went through our books as a loan, I believe, and it showed a loss and altogether charged off our books.

Q. Let me see. You mean it was collateral to a loan which the Equitable had made to Mr. Searles? A. Yes.

Q. Then this is the \$50,000 loan to Mr. Searles? A. I really don't know the amount.

Q. Well, perhaps I can refresh your memory. Was that loan to Mr. Searles a loan by the Equitable or by the Mercantile Trust Company? A. I don't know, sir.

Q. I find in a statement by Mr. Paul Morton, president of the Equitable, to the Board of Directors, under date of September 15, 1905, a statement as follows :

"In addition to the different loans which I brought to your attention at the last meeting of the Board, I find that in 1897 the society made a loan to John E. Searles which had, June 2, 1899, amounted to \$340,000. The total amount has been reduced to \$86,488. The collateral held is without value, and Mr. Searles has been through bankruptcy, which makes it necessary to charge off the amount. I do not see why this has not been done before, unless it is with the idea that ultimately Mr. Searles would be in a position to make the amount good." Now, Mr. Winthrop tells me just now that that is not the same loan that you referred to a moment ago and it is a different matter, but you are familiar enough with the transaction and know that there was a loan to Mr. Searles, and was collateral up against that loan? A. I so understood.

Q. And this collateral, the loan not being paid, was sold out through Messrs. Williamson & Squire, and that these moneys that came—that were placed in this book, Exhibit 192, to the credit of George H. Squire, trustee, and that were subsequently banked with the American Deposit & Loan Company, to the credit of George H. Squire as trustee, were moneys derived from the sale



*Testimony of Henry Greaves*

of that collateral? A. Of course, part of them. Where it refers to Standard Rope & Twine.

Q. Exactly. There are a large number of items here, proceeds of bonds, shares and apparently income bonds of Rope and Twine. A. Of course, that depends upon—if I understand the accountant correctly——

Q. Well, that is your understanding? A. That is my understanding.

Q. From the best information you can get? A. Yes.

Q. Now, at the time when these moneys came in, what did Mr. Squire tell you as to what they were? A. Absolutely nothing.

Q. Simply told you to enter what they were in this book? A. Yes, sir.

Q. And to give the check to Mr. Jordan? A. Yes, sir.

Q. Subsequently when this account was opened in the American Deposit & Loan Company, did you attend to it for them, did you open the account? A. No.

Q. Do you know who did? A. As I have always understood—I may have made some deposits, but I don't remember whether I ever did or not, but the check book to this account was kept by Mr. Jordan. I think at any rate for a long while he kept the pass-book, Mr. Jordan personally. All I had was just that book in which I kept a memorandum as things happened that they reported to me.

Q. Now, you are sufficiently acquainted with the matter to know that the item with which the account of George H. Squire, Trustee, in the American Deposit & Loan Company, opened, to wit, \$36,030.98, was from proceeds of the securities mentioned in this book, 192 for identification, and for the most part derived from those collaterals on the sales loan? A. Yes.

Q. What was the Audit Company's stock, for which, under date of September 11, 1900, it appears that \$1,730.50 was re-

*Testimony of Henry Greaves*

ceived? A. I don't appear to have any voucher in regard to that.

Q. Does what you have said in regard to the Rope & Twine Company's stock apply to that Audit Company stock; was that also collateral, according to your information? A. I don't think so, if I remember correctly. As I said, I only had a few minutes talk with the accountant on this. I think it had something to do with the account known as the Marcellus Hartley account.

Q. What was that account? A. I don't know what the account was.

Q. Where was it kept? A. I think it was kept in the Mercantile Trust Company.

Q. Have you any datum with reference to that? A. There is something in relation to that, that shows something else.

Q. My attention is called to the fact that in this book of yours, Exhibit 192 for Identification, under date of April 2d, the account of George H. Squire, Trustee, is credited by amount received from the Mercantile Trust Company, being balance of M. H. Trustee account, \$55,631.13. That is your handwriting? A. Yes, sir.

Q. Does that mean that the account previously kept with Marcellus Hartley, Trustee, was then closed, and the balance transferred to the credit of George H. Squire, Trustee? A. That I should think it did, although I was not told.

Q. That M. H. stands for Marcellus Hartley? A. Yes.

Q. Now, this letter that you give me, under date of April 1, 1902, I will offer in evidence.

(Paper marked Exhibit 194.)

MR. HUGHES reads Exhibit No. 194.

Q. There was then, a loan of M. Hartley, Trustee, and there was collateral to that loan, \$223,000 Third Avenue 4% bonds,

*Testimony of Henry Greaves*

and that loan was apparently with the Mercantile Trust Company? A. Yes, sir.

Q. And the Equitable Life Assurance Society received from the Mercantile Trust Company checks aggregating \$55,631.13, which were endorsed to George H. Squire, Trustee, and handed to George H. Squire as Financial Manager of the Equitable Life? A. Yes, sir.

Q. And when George H. Squire, as Financial Manager of the Equitable Life, got that amount of money he instructed you to make an entry in the George H. Squire, Trustee, account that that was to credit balance of the M. H. Trustee account, and then the \$55,631.13 was deposited on the same date, April 2, 1901, to the credit of George H. Squire, Trustee, in his account with the American Deposit & Loan Company? A. Yes.

Q. Now, to come back to the point from which we diverged, that Audit Company stock you think had something to do with that? A. I think so.

Q. What makes you draw that conclusion? A. In talking to the accountants I think they told me that. I am not positive on that statement, because as I say I only had a few minutes with them, but I told them I really did not know where those things came from at all, and they said they had been ferreting it out.

Q. Here is another item, on this same page, just before the account with the American Deposit & Loan Company was opened under date of October 17, 1900. I am referring now to your account book, Exhibit 192 for Identification, to wit, proceeds of profit New York City 3½ bond syndicate, \$5,400.92. Do you remember what that syndicate was? A. No, sir.

Q. Have you got some voucher or letter relating to it? A. I don't think I have anything relating to that.

*Testimony of Henry Rogers Winthrop*

MR. HUGHES: Will you withdraw a minute, Mr. Greaves, and Mr. Winthrop take the stand?

H. R. WINTHROP, resumed.

BY MR. HUGHES:

Q. Have you now found the authorization for the distribution of that allotment of the Imperial Japanese 4½ bond syndicate, where the Equitable Life Assurance Society gave the Mercantile Trust Company and the Equitable Trust Company shares of its participation? A. In the typewritten memorandum sheets of minutes which are made out at the end of each meeting and read to the subsequent meeting, and then, if approved, are copied in the minute book, I find on Monday, April 3, 1905: "Present, Messrs. Depew, Deming, Krech, Frick, the president, Vice-President, Second, Third and Fourth Vice-Presidents, the Comptroller, the Secretary of the Committee. The following minute is made; On the Committee being notified that Messrs. Kuhn, Loeb & Co. had advised the Society that they had reserved for them a participation of 800,000 pounds in the new Japanese 4½ per cent. loan syndicate instead of 1,000,000 pounds, it was on motion resolved that the same be accepted, 500,000 pounds of the same for the account of the Society, 160,000 pounds to the Equitable Trust Company, and 80,000 pounds to the Mercantile Trust Company. Using these same memorandum minutes, I find on further, March 24th, the authorization for the acceptance of a million debenture bonds, which was divided as follows: 700,000 pounds to the Society, 200,000 pounds to the Equitable Trust Company, and 100,000 pounds to the Mercantile Trust Company. So that the subsequent resolution was only changed as it affected the reduction of the Society's entire allotment from 1,000,000 pounds down to 80,000 pounds.

*Testimony of Henry Greaves*

MR. HUGHES: Will you withdraw, Mr. Winthrop. Mr. Greaves we will go on with you a little longer.

HENRY GREAVES, resumed.

BY MR. HUGHES:

Q. We were talking about this New York City 3½ per cent. bond syndicate, \$5,400, and I find another item, after the account in the American Deposit & Loan Company had been opened, of profits, New York 3½ per cent. bond syndicate No. 2, \$3,009.15. Do you know what that was? A. No, sir; I do not.

Q. Have you any vouchers in regard to that? A. There are no vouchers here.

Q. I wish you would let me see the vouchers which run along down to this time. You have them all there together, have you not? A. I think—they may not be the exact dates. (Producing paper.)

Q. Here is an item under date of April 16, 1900. That is in your handwriting? A. Yes, sir.

Q. Check \$197.40 being the amount of accumulated interest on \$940, script was given to Mr. Jordan. All these checks were given to Mr. Jordan and all the collateral or securities referred to seems to have been sold by Williamson & Squire? A. Yes, sir.

Q. That is true? A. Yes.

Q. In whose handwriting is that (indicating)? A. That is Mr. Squire's.

Q. This paper now shown you? A. Yes.

Q. And that refers to that \$1,730.57? A. September 11th.

Q. Amount to be placed, it says, to the credit of G. H. Squire, trustee? A. Yes.

Q. That is the only voucher you have for that? A. Yes. This

*Testimony of Henry Greaves*

is his handwriting up there. I don't know whether this credit is his or not.

Q. The account with George H. Squire, trustee, with the American Deposit & Loan Company having been opened October 27, 1900, with a credit of \$36,030.98, the remaining deposits or the succeeding deposits to the credit of the account with the bank corresponds with the items to the credit of George H. Squire, trustee, in this book that you keep? A. Yes.

Q. Now, you called my attention to the fact that the items with which the account opens of \$36,030.98 is the total amount of the deposits down to that time less \$2,000 first drawn by Mr. Jordan on September 17, 1900? A. Yes.

Q. Do you know about that draft? A. I don't know anything more than it was paid to Mr. Jordan.

Q. He drew a check on the account, he was able to draw checks on it? A. Well, as I understand it, the account was—three people could sign checks, and on the checks there had to be two signatures of those people.

Q. Who were the three? A. I understood it was George H. Squire, William H. McIntyre and Thomas D. Jordan, any two of those could draw a check.

Q. I see. Do you remember about this check that was drawn, or rather, that was deducted, in cash? A. Yes. That was only told to me—I don't know anything more about that. Mr. Squire told me to enter it and I entered it.

Q. As cash? A. As cash.

Q. And that left \$36,030.98 out of a total of \$38,090.98, and that went to the credit of this account when it was opened? A. Yes.

Q. Having been opened in that way and additional items from Rope & Twine having been entered November 10th, \$2,175, November 14th, \$2,483.25, then the item from the New York City 3½ bond syndicate is \$3,009.15. On September 20th there

*Testimony of Henry Greaves*

is a credit of \$25,000. This was, as stated by you in your book September 19th, a share in the profits of Chicago & Northwest syndicate? A. Yes.

Q. That was the profit on the syndicate participation of the Equitable Life Assurance Society? A. Yes, it appears to be.

Q. That we have already had evidence about to-day from Mr. Winthrop? A. Yes.

Q. The society got a check, or was that a check to Mr. Squire? A. Probably to the society.

Q. And endorsed by the society to Mr. Squire? A. Very probably.

MR. WINTHROP: That was the check that was drawn to the order of the society.

Q. And endorsed to Mr. Squire and he gave it to you to bank in this account? A. That I am not sure, whether I made the deposit or not. It was customary for the checks to be sent to Mr. Jordan, whether I did it I don't know.

Q. But you had something to make this entry. Do you remember what it was? A. He gave me the items to enter.

Q. Did he give you any ticket or voucher relating to it? A. I don't seem to find any ticket or voucher.

Q. You just made the entry——. A. On his personal request.

Q. By the way, I find some other vouchers here earlier regarding these Rope and Twine transactions, which seem to be statements from Williamson & Squire to George H. Squire that "We have sold for your account——" A. Yes, that will be all down there.

Q. These correspond to these various items? A. I think you will find they all correspond.

Q. Well, what makes you rather positive that this was a check

*Testimony of Henry Greaves*

to the society and endorsed over to Mr. Squire? A. From data that I have looked up in regard to syndicates.

Q. Well, do you find something that would enable you to state that that was endorsed by Mr. Squire for the society to Mr. Squire as trustee? A. I don't think that Mr. Squire ever endorsed checks payable to George H. Squire, trustee. I think that in all cases you will find it was endorsed by some other officer. I think the first—perhaps at that date Mr. Squire may not have been authorized to sign checks, in 1900. I am not sure whether he was or not.

Q. To what account are you referring; he was not an officer at that time? A. In other words, if a check was made payable to the Equitable Life he could not endorse it over to anybody because he was not recognized in any bank as an officer.

Q. Who would endorse it? A. Anyone of the officers who are authorized, presumably Mr. Jordan may have done it. I don't know.

Q. But it went to the credit of this account? A. Yes.

Q. And undoubtedly it was Equitable money, as appears from this statement? A. Yes.

Q. Then we find an entry January 4, 1901, a credit of interest allowed by the American Deposit & Loan Company of \$202.61 on the George H. Squire, trustee, account and the balance is brought forward. Now, the next entry we find to the credit of the account February 25th, profit on one-half interest in Chicago & Alton 3 per cent. certificate syndicate, \$5,067.70. What was that? A. I don't think I have anything in relation to that, any document in regard to that at all. Probably Mr. Squire presumably gave me instructions to enter that.

MR. HUGHES: Will you step aside, Mr. Greaves, for a moment? Mr. Winthrop take the stand.



*Testimony of Henry Greaves*

H. R. WINTHROP resumes.

BY MR. HUGHES:

Q. I find in this account of George H. Squire, trustee, an entry, profit in one-half interest in Chicago & Alton three per cent. certificate syndicate, \$5,067.70. Have you any record of any participations by the Equitable Life in that syndicate? A. No.

Q. This is not at all shown in the list we have had under consideration? A. No.

Q. This must be a George H. Squire, trustee, participation? A. Yes.

Q. Now, the next item, March 15, 1901, is profit on Pennsylvania Company's three and one-half per cent. syndicate, \$10,107.50. Have you a record on your books of that? A. No, sir.

Q. The next item is April 1, 1901, Baltimore & Ohio convertible debentures, profit of \$4,268.44. Credited to George H. Squire, trustee. Is there any entry on the Equitable books of that participation? A. No.

Q. The next item is June 10, 1901, profit on Union Pacific convertible syndicate, \$16,402. Is there any entry on the Equitable books of that participation? A. Well, we have got that syndicate, and that is the one syndicate we did not take up to-day.

Q. And that you are not prepared to speak of to-day? A. No.

Q. Never mind about that now, you can look that up? A. Yes

Mr. HUGHES: Mr. Greaves, will you resume.

HENRY GREAVES resumes:

BY MR. HUGHES:

Q. Then we find entries of interest allowed and that brings us to the end of December, 1901. Now, I find on the other side of

*Testimony of Henry Greaves*

the account, as a charge against these credits under date of December 30, 1901, the following phrase, "Check drawn to the order of J. W. Alexander and endorsed over to the Mercantile Trust Company to reduce J. W. A. No 3 account, \$100,000." Do you remember about that? A. I remember the entry.

Q. There was a J. W. A. No. 3 account? A. Yes.

Q. And that was kept where? A. I believe in the Mercantile Trust Company.

Q. Now, this check was drawn on the George H. Squire account and went to the credit of that other account? A. Yes.

Q. Do you remember who drew that check? A. All checks were drawn, so far as I knew, by Mr. Jordan, who kept the check book.

Q. I see. A. And they had to be signed as I stated before, by two of the three parties I mentioned.

Q. What was this J. W. A. No. 3 account? A. I don't know anything about it, it is J. W. Alexander, you know.

Q. Yes, but you don't know anything about it? A. No, sir.

Q. Where did you get the information about this check? A. From Mr. Squire.

Q. At the time? A. Yes.

Q. Did he give you any ticket or tell you anything about it? A. No, sir, just told me to enter it.

Q. Did he give you a memorandum from which you could enter it? A. No, sir, I don't remember to have any, and all memorandums I have had I have always kept.

Q. Then, we go into 1902, and we find this balance of the Marcellus Hartley trustee account, \$55,631.13, which has already been mentioned, placed to the credit of George H. Squire, Trustee, and also an amount from Pittsburg Co. loan, \$6,670.83. Do you remember what that is? A. I think the Mercantile Trust Company made a loan to that company and the Equitable had part of the loan on which they received their interest. It was a loan. Besides

*Testimony of Henry Greaves*

that I think they received that profit, and instead of that profit going to the Equitable Life's books it was put to the George H. Squire, Trustee Account.

Q. I don't quite understand what you mean by getting a profit?  
A. Besides the interest——.

Q. Was there a sort of a bonus on the loan? A. Yes, which they received.

Q. For making the loan? A. For making the loan, or something to that effect. I don't remember the details of it, but I know there was a loan and it was on our books.

Q. You mean by your books the Equitable Life Assurance Society books? A. Yes.

Q. And the loan is on the books? A. Yes.

Q. And the interest? A. Yes.

Q. And the bonus that was received went to the George H. Squire account? A. Yes.

Q. Have you got some memorandum or statement respecting that? A. I don't think I have. I will look through and see.

(Producing paper.)

There is the letter.

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit No. 194A.)

MR. HUGHES reads Exhibit No. 194A.

Q. From May 1st to May 7th, that is a different period? A. It seemed—I should have to make sure of that by looking on our books in regard to the loan. I am under the impression that the Society did get interest and that was in addition to what the Society had received.

Q. I find on June 30th and September 30th, 1902, in your book here George H. Squire trustee account, entries of interest allowed

*Testimony of Henry Greaves*

by the Equitable Trust Company. That is on this same account?

A. Yes.

Q. After the Equitable Trust Company had succeeded the American Deposit and Loan Co. A. Yes.

Q. There are some deposits to the credit of George H. Squire, trustee, that do not appear in your books, however, for example, July 12, 1901, I find a deposit in bank to the credit of George H. Squire, trustee, of \$40,000, but I do not find any entry of it in your book Exhibit 192 for identification. Do you know about that? A. No, I don't know anything more than that I have.

Q. Can you throw any light on that?

Witness inspects book, but makes no answer.

Q. Now, you call my attention to an entry under the head of West Virginia Central and Western Maryland Purchase Syndicate in this same book Exhibit 192 for identification. Is that your handwriting? A. Yes, sir.

Q. Where did you get the facts that you entered in this? A. Presumably from Mr. Squire, as I do not seem to have any memorandum.

Q. This says as follows: "Received letter from James H. Hyde offering a participation to George H. Squire, trustee, of \$200,000 in the above named syndicate, which was accepted March 24, 1902. Received letter from James H. Hyde calling for first payment of 20 per cent of \$40,000 which amount was borrowed March 31st from the American Deposit & Loan Company on the Mercantile Trust Company's participation syndicate, \$40,000. Now, this is the letter to which reference is made (indicating.) A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 195.)

MR. HUGHES reads Exhibit No. 195.

Q. Is this interest in addition to interest which the company

*Testimony of Henry Greaves*

had received? A. From what that letter says I think it was.

Q. What is there in the letter which enables you to get that?

A. It says less interest at 5 per cent.

Q. Now, what was the James W. Alexander and Thomas D. Jordan Trustee account? A. I don't know, sir.

Q. Was that the same as the J. W. Alexander No. 3 account?

A. It may have been, but I don't know. I should judge that the J. W. A. No. 3 account—there must have been two other accounts there. They had nothing to do with the trustee account, or were not identical.

Q. Mr. Winthrop suggests you believe it to be the same?

A. Yes, sir.

Q. In other words, the J. W. A. No. 3 account is an account which, from such information as you have been able to get, you believe was sometimes called the James W. Alexander and Thomas D. Jordan account? A. Yes, sir.

Q. So that the \$40,000 proceeds of the West Virginia Central and Western Maryland Purchase syndicate was allotted to George H. Squire as trustee for the benefit of that account? A. Yes, sir.

Q. That is, whatever benefits were derived from it were to go to that account? A. Yes, sir.

Q. Now, was the \$40,000 paid? A. Yes, sir.

Q. We find your entry here on May 26th on your book Exhibit 192 for identification on page 60: "May 26th, 1902, received letter from James H. Hyde calling for second payment of 20 per cent, being amount which was borrowed from Equitable Trust Company June 10th and Mercantile Trust Company's participation certificate having been deposited with the trustee as security." And this is the second call on the same participation? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked 196 and read by Mr. Hughes.)

*Testimony of Henry Greaves*

Q. It is addressed to J. W. Alexander, trustee, while the participation was in the name of George H. Squire, trustee? A. Yes, sir.

A. Yes, sir.

Q. How do you account for that? A. It is a clerical error as far as I am able to judge.

Q. But the money was paid? A. Yes, sir.

Q. And the first was raised on a loan from the Equitable Trust Company on the pledge of the Mercantile Trust Company's participation? A. Yes, sir.

Q. And the second, just mentioned, was raised on the same collateral and a loan from the Equitable Trust Company? A. Yes, sir.

Q. And there was another call on October 10, 1902, of \$20,000, and that is a letter as follows, which I offer in evidence. A. That acknowledges receipt of it.

Q. You haven't a letter making the call, but you show this letter acknowledging the receipt? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 197 and read by Mr. Hughes.)

Q. Now, that \$20,000 was borrowed from the Equitable Trust Company on the Mercantile Trust Company's participation. A. Yes, sir.

Q. And an entry of October 10, 1902, "Received letter from James H. Hyde calling for a third payment of 10 per cent. which was borrowed from Equitable Trust Company, Mercantile Trust Company's participation being deposited with the trust company? A. Yes, sir.

Q. Now, on March 14, 1904, there was a fourth call, wasn't there? A. March 14, 1904? I don't seem to find it.

*Testimony of Henry Greaves*

Q. You find on your book, March 31st, call for fourth payment, being 10 per cent., \$20,000? A. Yes, sir.

Q. Now, you have given me those which are very important and interesting, but this account of the George H. Squire, trustee, on the American Deposit and Loan Company shows a credit on July 12, 1901, you see, before this transaction of \$40,000. Those are moneys that are paid out that you have just mentioned on account of that syndicate in 1902, but here is money that came in from some quarter and went to the credit of the account. Do you know where that came from? A. What is the first date there?

Q. These are 1902, March 24, 1902? A. All of them?

Q. Yes. A. I don't know where that can be.

Q. \$40,000 came from somewhere? A. There is another syndicate in here—no.

Q. Is there another one? A. No, sir. I think that is all.

MR. HUGHES: I will stop now, if you say so.

THE CHAIRMAN: Nobody is insisting upon it.

MR. HUGHES: I think it is a good plan to stop, and we will go on in the morning.

THE CHAIRMAN: The Committee will take a recess until 10.30 o'clock to-morrow morning.

Adjourned to Thursday, September 28, 1905, at 10.30 A. M.





ALDERMANIC CHAMBER,  
CITY HALL, NEW YORK CITY.

September 28, 1905.

The committee met pursuant to adjournment.

MR. HUGHES: Mr. Greaves, will you resume the stand?

HENRY GREAVES resumed.

BY MR. HUGHES:

Q. I was referring at the adjournment last evening to a deposit on July 12, 1901, of \$40,000 to the credit of George H. Squire, trustee, as shown by the bank deposit book, Exhibit 193 for identification. Can you tell me now what that was derived from? A. No, sir.

Q. I notice, as you call my attention to the fact, that on the other side of the bank book appears a draft of \$40,000, one voucher. That would seem to indicate that that \$40,000 had been deposited and immediately withdrawn? A. Yes, sir.

Q. Do you have any information regarding that? A. I have not.

Q. But we were right in the view we took last night that that \$40,000 was not derived from any of these items credited in the book which you kept for Mr. Squire, Exhibit 192 for identification? A. Yes, sir.

Q. Have you been able to find out since the adjournment the

*Testimony of Henry Greaves*

explanation of these items of New York City 3½ per cent. bond syndicate that were credited to the George H. Squire trustee account? A. No, sir.

Q. Have you been able to get any information as to the profit on one-half interest in Chicago & Alton 3 per cent. certificate syndicate \$5,067.70 that was credited to this account? A. No, sir.

Q. We find credited to this account the profits on Union Pacific convertible bonds syndicate of \$16,402; profit on Pennsylvania Company 3½ per cent. certificate syndicate, \$10,107.80; profit on Baltimore & Ohio convertible debentures, \$4,268.44 and two items on Chicago & Northwest syndicate, one on December 19, 1900, of \$25,000 and one on February 10, 1903, of \$19,138.62. Those were all deposited with the American Deposit & Loan Company to the credit of George H. Squire, trustee? A. Yes, sir.

Q. This account seems to have been closed—I refer to the account with the American Deposit & Loan Company—seems to have been closed—on May 1, 1901, and the balance carried to a new book. Have you that new book here? A. I have not.

Q. Where is the other book? A. I don't know.

Q. The balance carried to the new book is \$62,770.81 on May 1, 1901? A. Yes.

Q. Did you ever see that book, the new book? A. I don't remember.

Q. Well, did you have at any time occasion to make deposits which were credited in the new book? A. That was May 1st—deposits were made since that date.

Q. Well, did you make them for Mr. Squire? A. Not that I know of. I may have and may not.

Q. Well, after May 1, 1901, who kept the bank book, that is, who had possession of the bank deposit book of this account? A. Mr. Jordan.

Q. Thomas D. Jordan? A. Yes, sir.

Q. And when checks would come in which were deposited to

*Testimony of Henry Greaves*

the credit of that account did you take them to Mr. Jordan? A. In nearly all cases I did.

Q. Have you any memoranda referring to any of these latter items in the account after the beginning of 1902? (Witness produces paper.) A. I showed you some of those yesterday.

Q. I would just glance through them and see if there are any that I want. (Question repeated.) A. I think I have a letter showing that there was received, and an entry in my book showing there was deposited to the credit of this account an amount of \$6,770.83, Pittsburg Coal loan.

Q. That is what you referred to yesterday? A. Yes.

Q. Is that the only memorandum you have explanatory of any of these items? A. I have notices from the——

Q. I find an item to the credit of the George H. Squire account under date of October 5, 1903, \$3,015.30, by amount received from the Western National Bank in settlement. From whom was that amount received? A. I don't know, sir.

Q. Do you know or have you any information as to the matter as to which it was in settlement? A. No, sir.

Q. Then we have items of interest allowed by the Equitable Trust Company and on April 12, 1904, an entry of a balance transferred to Louis M. Bailey, trustee, \$365.45. Who is Louis Mr. Bailey? A. He is an employee of the Equitable Life.

Q. In what way is he employed? A. He is in the bond and mortgage department.

Q. In what way? A. He is connected, I believe, with Mr. Jordan, associated with Mr. Jordan and Mr. Gerald R. Brown. Mr. Gerald R. Brown is the superintendent of the bond and mortgage department.

Q. Is Mr. Bailey still in the employ of the company? A. Yes, sir.

Q. Did Mr. Bailey have anything to do with this George H.

*Testimony of Henry Greaves*

Squire, trustee, account prior to the time it was transferred to his name in April, 1904? A. No, sir.

Q. Have you the bank book that shows the opening of the account with the Equitable Trust Company in Mr. Bailey's name? A. Yes, sir.

MR. HUGHES: I will ask to have that marked for identification.

(Book marked Exhibit 198 for identification.)

Q. And the amount with which this account was opened on April 13, 1904, exactly agrees with the balance of the account in the book kept by you? A. Yes, sir.

Q. I refer to Exhibit 192 for identification. A. Yes, sir.

Q. So that while we have not the intervening bank book, you believe we have the items of debit and credit? A. Yes, sir.

Q. Which appear in that book? A. Yes, sir.

Q. Since its transfer to Mr. Bailey's name in 1904 it appears that only one deposit has been made under date of October 11, 1904, of \$843.35. A. Yes, sir.

Q. Do you know what that was? A. No, sir.

Q. That does not appear in your book? A. No, sir.

Q. And there have been no drafts against it by Mr. Bailey or by anyone else apparently? A. Apparently.

Q. At least the book does not show any? A. No.

Q. It shows a balance under date of August 14, 1905, to the credit of Louis M. Bailey, trustee, of \$1,208.80? A. Yes, sir.

Q. Now, on the other side of this account of George H. Squire, Trustee, beginning with 1900, we find as the first draft \$2,000, which you have already explained as drawn in cash by Mr. Jordan. A. Yes, sir.

Q. Then you have paid to the order of J. W. Alexander, en-

*Testimony of Henry Greaves*

dorsed over to the Mercantile Trust Co. to reduce the J. W. A. Trustee account, \$100,000? A. Yes, sir.

Q. You have under date of October 4, 1902, cash paid Mercantile Trust Company, \$65,000? A. Yes, sir.

Q. Then you have under date of April 15, 1903, cash paid Equitable Trust Company, to reduce loan account, \$20,000? A. Yes, sir.

Q. The \$65,000 first mentioned, I understand, went to the credit of the J. W. A. No. 3 account with the Mercantile Trust Company? A. I do not know anything about that.

Q. Well, I understood you to say that last night, or I understood you to say that was your understanding. Maybe I was mistaken. A. No, sir; I was referring to the \$100,000.

Q. You have no information what this \$65,000 was paid on? A. No, sir; I have not.

Q. Have you any information what this \$20,000 paid in November, 1903, to the Equitable Trust Company, was for? A. I have none direct. But referring to the syndicate accounts, where the George H. Squire Trustee Account borrowed from the Equitable Trust Company that amount may have gone toward reducing those loan accounts.

Q. You refer to the sums aggregating \$100,000, which were borrowed in the syndicate of West Virginia Central and Western Maryland purchase, as follows:

|                    |          |
|--------------------|----------|
| March 24th .....   | \$40,000 |
| May 26th .....     | 40,000   |
| October 10th ..... | 20,000   |

the first having been from the American Deposit & Loan Company, and the other two from the Equitable Trust Company? A. Yes, sir.

Q. And also March 21st, 1904, \$20,000. You think this amount

*Testimony of Henry Greaves*

paid on April 15, 1903, was against some of those payments?

A. No, sir.

Q. It was against another syndicate, wasn't it? A. Yes, sir.

Q. It had nothing to do with this West Virginia Central & Western Maryland syndicate, nothing at all, but it had to do with another syndicate, the Navigation Syndicate? A. Yes, sir.

Q. And you have the entry of that in another book, in this book, Exhibit 192 for identification, at page 64? A. Yes, sir.

Q. Now, referring to this, I find the entry as follows: 1902, under the heading of Navigation Syndicate,

"Received letter from James H. Hyde offering a participation to George H. Squire, Trustee, of \$250,000 in the above named syndicate, which was accepted."

Have you that letter? A. No, sir, I have not.

Q. The next entry is under date of May 2, 1902:

"Received letter from James H. Hyde calling for first payment of 25 per cent, being \$62,500, which amount was borrowed from the Equitable Trust May 5th, on the participation certificates."

That amount of \$62,500 was paid over to the Navigation Syndicate Managers, or was it paid to Mr. Hyde? Is this the letter of acknowledgement? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit No. 199, and read by Mr. Hughes.)

Q. On what participation certificates was that amount borrowed from the Equitable Trust Company? A. I do not know, sir.

Q. Did you have anything to do yourself with that matter? A. No, sir.

Q. You merely made the entries from Mr. Squire's statement? A. Yes, sir.

Q. Did he make the statements to you orally or in writing? A.

*Testimony of Henry Greaves*

I may have taken the entries from the letters as he handed them to me.

Q. The next entry is under date of May 22, 1902:

"Received letter from James H. Hyde calling for payment of 25 per cent., being \$62,500, which amount was borrowed from the Equitable Trust Company, the participation certificate having been deposited with the trust company as security."

That amount was paid? A. Yes, sir.

Q. And acknowledged by Mr. Hyde? A. Yes, sir.

Q. The next entry is under date of October 8, 1902:

"Received letter from James H. Hyde calling for a third payment of 30 per cent., being \$75,000, which amount was borrowed from the Equitable Trust Company, October 10th, participation certificates having been deposited with the trust company as security."

That amount was paid to Mr. Hyde on that call? A. Yes, sir.

Q. And the money was borrowed as stated? A. Yes, sir.

Q. The next entry is January 16, 1903, "Received letter from the Equitable Trust Company, stating that they had paid to the order of James H. Hyde, \$25,000, being in payment of a call of ten per cent."

Will you explain that entry? A. I have a letter here addressed to George H. Squire, Trustee, dated January 16, 1903, 3-55 P. M., from the Equitable Trust Company:

*Testimony of Henry Greaves*

"Dear Sir:

"We beg to advise you that on the 15th instant we sent our checks for \$25,000 to the order of Mr. Hyde in payment of a call of ten per cent. on the subscriptions to the Navigation Syndicate. The receipt for the above amount has been noted on the receipt which we hold in our office.

"Yours very truly,

"F. W. Foley, Treasurer."

Q. That then was a loan to Mr. Squire, at Mr. Hyde's request, by the Equitable Trust Company, to enable Mr. Squire to pay the ten per cent. call on his subscription to the Navigation Syndicate? A. I do not know that Mr. Hyde requested it.

Q. Well, it was a check sent to the order of Mr. Hyde directly? A. Yes, sir.

Q. By the Equitable Trust Company? A. Yes, sir.

Q. In payment of a call which presumably had been made on Mr. Hyde, and which he in turn would have made upon Mr. Squire? A. Yes, sir.

Q. Now, the next entry we have is in red ink, under date of April 13, 1903, credit  $2\frac{1}{4}$  per cent. dividend on amount paid in, \$5,062.50. What was that? A. The syndicate managers, probably, paid us  $2\frac{1}{4}$  per cent. on amount paid in, and the interest on the amount of our money that they held.

Q. The next entry is in red ink, April 15, 1903, credit on amount paid, \$20,000. What does that mean? A. That Trustee Account paid \$20,000 to reduce their loan with the Equitable Trust Company.

Q. That is George H. Squire, Trustee, paid that amount, drawing from the George H. Squire Trustee Account in reduction of the loan made on the participation of George H. Squire, Trustee, in the Navigation Syndicate? A. Yes, sir.

Q. July 20, 1903, for payment on account, fifth call, ten per



*Testimony of Henry Greaves*

cent., \$25,000. What is the explanation of that? A. That means that we had another call for payment, a fifth call, and the money was borrowed from the Equitable Trust Company.

Q. It is not so stated there, but you know that is the way it was done? A. Yes, sir.

Q. On the participation certificate as security again? A. Yes, sir.

Q. Then we have on October 6, 1903, a credit of 2.113 per cent. dividend on amount paid in, \$5,282.50, and April 5, 1904—  
A. That must have been 1904.

Q. A credit of  $2\frac{1}{4}$  per cent. dividend on amount paid in, \$5,062.50, and April 8, 1904, a credit of amount paid in, \$7,500. Those were amounts received by George H. Squire, Trustee, from whom? A. I don't know from whom, but it would appear they were received from James H. Hyde, who in return must have received it from the syndicate managers.

Q. Now, when George H. Squire got this money mentioned in these credits what did he do with it? A. I do not know, Mr. Hughes.

Q. It was deposited to the credit of the George H. Squire trustee account? A. As far as my books show, it doesn't appear to have been.

Q. Well, your books, as you have already noted, show the exact balance that on April 12, 1904, was transferred to the credit of Louis M. Bailey, trustee, when the George H. Squire trustee account was closed? A. Yes, sir.

Q. So it must include all the credits and debits? A. Yes, sir.

Q. Now, did George H. Squire have any other account except his own personal account? A. No, sir; not that I know of.

Q. Do you know that he got these moneys that are entered here and credits of dividends? A. Yes, sir.

Q. What information did you have as to his receipt of those?

*Testimony of Henry Greaves*

A. The fact of my entering them in this syndicate account; he must have told me about them.

Q. At the time? A. At the time. I——

Q. We have noticed——. A. I was going to say that I would like to look into that and see whether that was credited to the account of the Navigation syndicate as a separate item or not.

Q. You mean that there was a separate bank account kept of the Navigation syndicate? A. No, sir; no, sir; what I mean was that it may have gone, and through an error of mine, maybe, or through an error of Mr. Squires, not to advise me, might have gone to reduce the loan account the same as the \$20,000 did.

Q. Not the same as the \$20,000 did, because that \$20,000 that reduced the loan account was paid direct by a check of George H. Squire, trustee, drawn on this account to the Equitable Trust Company? A. Yes, sir.

Q. But these amounts were not paid in that way unless the checks were endorsed over, for they did not go into the George H. Squire trustee account? A. I should have to look that up.

Q. Now, I find over here that although these checks, received by way of dividends by George H. Squire, were not deposited to the credit of George H. Squire, trustee, in any account under that name, there was drawn upon that account on April 8, 1904, \$7,500 to the Equitable Trust Company to reduce the loan on account of the Navigation syndicate? A. Yes, sir.

Q. The point is that Mr. Squire drew \$20,000 on April 15, 1903, \$7,500 on April 8, 1904, to reduce the loans made by the Equitable Trust Company on his participation in that syndicate, but when the moneys came in from the syndicate managers, by way of dividends, those were not deposited to the credit of the George H. Squire trustee account? A. It doesn't appear to have been.

Q. Do you know how this syndicate participation of George H. Squire, trustee, that is the Navigation syndicate participation,

*Testimony of Henry Rogers Winthrop*

was finally closed up? A. From all I know the account is not closed.

Q. Still open? A. Still open.

Q. Mr. Winthrop informs me that this participation is still on the books of the Equitable Life Assurance Society in the name of Louis M. Bailey, trustee. Will you step aside, Mr. Greaves. Mr. Winthrop, will you resume the stand.

HENRY ROGERS WINTHROP, recalled, testified as follows:

BY MR. HUGHES:

Q. Mr. Winthrop, referring to the participation of George H. Squire, trustee, in Navigation Syndicate, I call your attention to the statement already made by you in the list that has been furnished of an International Navigation First Mortgage Bond Syndicate received from James H. Hyde and associates. Are these two different things? A. Yes, sir.

Q. Then the Navigation Syndicate that George H. Squire, trustee, had a participation in was the syndicate floating the fifty millions of bonds out of the authorized issue of seventy-five millions—the big syndicate? A. Yes, sir.

Q. Now, is that syndicate participation on your books at all? A. Only in this way, it is still carried in the Equitable Trust Company as a loan in the matter of L. M. Bailey, trustee, and the same applies to this West Virginia Central, the Equitable Life have been notified by the Equitable Trust Company that the trust company holds the Equitable Life responsible for this loan, and I believe that the loan will be taken up by the Equitable Life and carried by the insurance company direct on our books.

Q. That is a loan of \$250,000 reduced by two payments aggregating \$27,500? A. Yes, sir. Here is the collateral.

*Testimony of Henry Rogers Winthrop*

Q. Well, what is the collateral held by the trust company? A. As collateral they have all the receipts or all the money paid in to the syndicate managers plus these credits.

Q. As I understand it George H. Squire, trustee, was given a participation of \$250,000? A. Yes, sir.

A. And there was borrowed in his name from the Equitable Trust Company a total of \$250,000? A. Yes, sir.

Q. And he has paid by drafts upon the George H. Squire, trustee, account \$27,500? A. Yes.

Q. So that the Equitable Trust Company has simply that margin of the \$27,500? A. Yes.

Q. Now, these dividends that come in are what, interest on bonds or certificates? A. There is interest on the interim certificates which are used as an offset against the interest on the loan; the loan is at 4 per cent., I believe.

Q. Do you know whether these amounts which Mr. Squire received by way of dividends went to the reduction of the Equitable Trust Company loan? A. They went either to reduce the principal or interest charges.

Q. Did the Equitable Trust Company get those moneys? A. I think so. We have all this made out in a separate statement.

Q. Have you got it here? A. No, I can telephone for it.

Q. I wish you would. Just one more question, Mr. Winthrop. Do you understand why it was that this participation of \$250,000 was taken in the name of George H. Squire and the money borrowed in his name from the Equitable Trust Company instead of being taken directly by the Equitable Life Assurance Society and the money paid by it? A. No, sir.

Q. Do you understand that this participation of George H. Squire, trustee, was really an Equitable participation? A. It appears to be, yes.

Q. You understand that all these transactions with George H.

*Testimony of Henry Greaves*

Squire, trustee, that is all the moneys which were received and credited to this account belonged to the Equitable Life Assurance Society? A. Well, from the fact that the Equitable Life checks went into the account, I myself believe it is.

MR. HUGHES: That is all for the moment. You will also get me a statement of that West Virginia Central.

HENRY GREAVES, resumed.

BY MR. HUGHES:

Q. Now it would appear from this account that you have handed me that there were just five checks drawn on that George H. Squire trustee account? A. Yes.

MR. HUGHES: I will read those on the record:

|                     |                                                                                                                            |         |
|---------------------|----------------------------------------------------------------------------------------------------------------------------|---------|
| September 17, 1900. | Paid cash drawn by T. D. Jordan                                                                                            | \$2,000 |
| Dec. 30, 1900.      | Check drawn to the order of J. W. Alexander endorsed over to the Mercantile Trust Company to reduce J. W. A. No. 3 account | 100,000 |
| Oct. 4, 1902.       | To cash paid Mercantile Trust Company.                                                                                     | 65,000  |
| April 15, 1903.     | To cash paid the Equitable Trust Company to reduce loan account                                                            | 20,000  |
| April 8, 1904.      | To cash paid the Equitable Trust Company to reduce loan account of Navigation Syndicate                                    | 7,500   |

Q. Did you have anything to do with the making of memor-

*Testimony of Henry Greaves*

anda with regard to the Alexander and Jordan accounts?

A. No, sir.

Q. Or the making of any deposits or drawing any drafts in that account? A. Nothing at all to do with it.

Q. Have you a letter addressed, or a copy of a letter addressed, by George H. Squire to William T. Cornell, President of the Equitable Trust Company under date of March 6, 1903? A. Yes, sir.

MR. HUGHES: I offer that letter in evidence.

(Marked Exhibit 200.)

MR. HUGHES reads Exhibit No. 200.

Q. Have you the letter under date of March 6, 1903, received by George H. Squire from William T. Cornell? A. No, sir, I have not.

Q. (handing paper) Is that a copy of it? A. I cannot testify to that because I never saw the letter as I know of.

MR. HUGHES: I will have the letter marked for identification.

(Paper marked Exhibit 201 for identification.)

Q. Have you had instructions to look upon the files of your company for the original, of which this is a copy? A. Yes, sir, I have looked.

Q. And have not been able to find it? A. And have not been able to find it.

Q. Have you the copy of a letter written by George H. Squire, trustee, to A. W. Krech, dated April 12, 1904? A. Yes, sir.

*Testimony of Henry Greaves*

MR. HUGHES: I offer that letter in evidence.

(Paper marked Exhibit 202.)

MR. HUGHES reads Exhibit No. 202.

Q. That last, "We hereby concur in the above," was signed by William H. McIntyre and Thomas D. Jordan, was it not? A. I don't know.

Q. Reference is made to paying off loans made to George H. Squire, trustee. Were there any other loans besides those made on the participations in the Navigation Syndicate and the West Virginia Central and Western Maryland purchase syndicate? A. Not that I know of.

Q. And those loans were transferred on the participations as collateral to the name of Louis M. Bailey, trustee, in accordance with this request? A. Yes.

Q. In the first letter of March 6, 1903, reference is made to both deposit and loan accounts, what do you understand to be the loan account referred to? A. I should take it that means the loans on these syndicate participations.

Q. Those are the only loans that you know of? A. Those are the only loans that I know of.

Q. From time to time Mr. Squire would acquaint Mr. McIntyre with the state of the account, or did Mr. McIntyre know it without such information? A. From time to time Mr. Squire used to advise both Mr. McIntyre and Mr. Jordan.

MR. HUGHES You show me a letter from Mr. McIntyre to Mr. Squire, which I offer in evidence.

(Paper marked Exhibit 203.)

MR. HUGHES reads Exhibit No. 203.

*Testimony of Henry Rogers Winthrop*

Q. Have you any further information regarding the Marcellus Hartley Trustee Account? A. No.

Q. Have you any book or papers relating to that? A. Nothing further, sir.

MR. HUGHES: Will you resume, Mr. Winthrop.

H. R. WINTHROP, resumes:

BY MR. HUGHES:

Q. There are certain questions which you were unable to answer yesterday, which I would like to have you answer to-day, if possible. You stated yesterday that on August 29, 1896, a check was drawn to the order of the society for \$23,919.44 as profits on the participation in the St. Louis & San Francisco Underwriting Syndicate. Have you traced that payment? A. As far as we now can ascertain, the amount was not credited on one of the regular books of the society. The accountants have that fact in hand, and are making an investigation, and we are going to ask the syndicate managers to show us the cancelled check so we can follow it through the endorsements.

Q. When you say not credited on the regular books of the society, you mean to say that you do not find the deposit of that item in any of the bank books of the society, or entered on any of the deposit entries. A. We do not find it entered in the books.

Q. Anywhere? A. Anywhere.

Q. You said regular books. Have you found it entered in any book? A. By regular books I mean books that are kept by the auditor, and not books such as that (indicating).

Q. Referring to this Squire book? A. Yes.

Q. Well, it is not entered in that? A. No.



*Testimony of Henry Rogers Winthrop*

Q. And it is not entered in any book that you have, whether regular or otherwise? A. No, sir.

Q. You were also asked with regard to the checks received from the Mercantile Trust Company of \$21,906.50 on April 30, 1897, and \$22,695.79 received on August 26, 1897. Have you traced those amounts? A. No, sir. The answer in regard to all the checks which we were unable to trace yesterday, the same thing applies to-day. We have no further information and we are preparing letters to the trust companies and to the syndicate managers, asking to be shown the cancelled checks.

Q. Then with regard to all the checks you were unable to account for yesterday, I understand you can now say that the books of the company have been examined. A. Well, they were examined hurriedly last night and this morning, and we got a staff of people going through them again to make——.

Q. We may assume that they are not upon the company's books subject to correction? A. Yes.

Q. In case you should find that any item has been overlooked——. A. Yes.

Q. You will acquaint the committee at once, if you find that this item or any of the items appear upon the books? A. Yes. Or credited to some other account by an error in bookkeeping.

Q. There was a syndicate which you were unable to make a statement about yesterday, the Union Pacific Reorganization Purchase Money Syndicate. Have you the data at hand now?

(Witness produces paper.)

Q. You now inform me that the entry, Union Pacific Reorganization Purchase Money Syndicate on this list, Exhibit 157 for identification, was not an apt entry, that really there were a number of entries relating to Union Pacific securities. A. Yes, sir.

Q. And that is the fact? A. And all relating to the reorganization.

*Testimony of Henry Rogers Winthrop*

Q. And all relating to the reorganization. Now, the first Union Pacific Syndicate was this one mentioned at the beginning known as No. 1, which you fully explained yesterday, down to the point that a profit of 3750 shares of Union Pacific preferred stock was obtained, but you did not state what the result of the disposition of those shares was. Are you now able to state?

A. We took them up at the price amounting to \$229,968.75, thus netting the society a profit on account of its participation in the syndicate of \$253,476.25.

Q. Which was duly accounted for upon the books of the company? A. Yes.

Q. The next syndicate in Union Pacific you have called the additional \$8,000,000 syndicate. What participation had the society? A. \$375,000 through the Mercantile Trust Company.

Q. Who were the others in the Mercantile Trust Company's participation? A. We have included this in our—we are about to write to them. We had not included this in our original letter to the Mercantile Trust Company specifically, as to the participation.

Q. So at present you do not know? A. No.

Q. What was the total allotment to the Mercantile Trust Company? A. We do not know as yet.

Q. The society, receiving a participation of \$375,000, made payment to that amount on call and received bonds at par for \$357,583 and also a bonus of 1,250 shares which were disposed of, making an additional profit of how much? A. \$58,968.25.

Q. That is accounted for in the company's books? A. Yes.

Q. Now, the next Union Pacific syndicate was styled as you have it here, Union Pacific Reorganization Purchase Money Syndicate, and the participation of the Equitable was how much? A. \$2,900, through the Mercantile Trust Company.

Q. Who were the syndicate managers of all these syndicates?

*Testimony of Henry Rogers Winthrop*

A. I believe Kuhn, Loeb & Company were the syndicate managers in all but one. I think——.

Q. You received from the Mercantile Trust Company a participation of \$2,900,000, what was the total allotment to the Mercantile Trust Company? A. I don't know.

Q. Who were your partners in that participation of the Mercantile Trust Company? A. We do not know.

Q. The following payments were made, aggregating \$2,900,000, you say on your statement, from December 3, 1897, to January 23, 1898? A. Yes.

Q. And certain bonds were received to the amount of the subscription and a bonus of stock, also a cash commission, and the net result of the transaction was a profit of how much? A. \$912,825.

Q. What bonds did the Equitable take in that matter? A. They——

Q. They took \$2,900,000 par value, did they not? A. Yes, at par.

Q. Then the profit that it made on the transaction was in the disposition of the bonds and the bonus shares of stock which were received, and the cash commission? A. Yes.

Q. The next Union Pacific you have styled as the Union Pacific Collateral Trust Note Syndicate. That apparently came through J. P. Morgan & Company? A. Yes, sir.

Q. Did you get the participation directly? A. Apparently we did.

Q. And how much was it? A. \$500,000.

Q. What persons connected with the Equitable were interested in that syndicate? A. We do not know.

Q. You have not yet got the information which you thought you could get from Kuhn, Loeb & Company on that point? A. No, the information from the various bankers has not been received.

*Testimony of Henry Rogers Winthrop*

Q. In that matter the society did not put up any money, did it?  
A. No.

Q. And it got a cash profit, and also a profit in preferred stock, making a total of \$43,475.29, which it realized from its cash profits and the disposition of the stock. A. Yes.

Q. Then there was another syndicate of Union Pacific stock, assessments guaranteed syndicate. That came from Kuhn, Loeb & Company? A. No, it came through the Mercantile Trust Company.

Q. But the syndicate managers were Kuhn, Loeb & Company?  
A. I believe so.

Q. Do you know what the Mercantile Trust Company's participation was? A. No, sir.

Q. But the society, through it, got a participation of \$500,000?  
A. Yes.

Q. And did not put any money? A. No.

Q. And got a cash commission of five per cent, amounting to \$25,000? A. Yes.

Q. So that everybody that went into that syndicate to the extent of \$500,000 without putting up any money got \$25,000?  
A. Yes.

Q. Now, who were in it? A. I don't know. Now, the next sheet is just what they worked out to explain the interests which were on our books in relation to the syndicate. Apparently it was not the syndicate at all, but we have given you all the facts.

Q. These pages you now hand me are a recapitulation of the results of these various transactions? A. Yes, sir.

Q. Showing what bonds the Equitable took, what was done with them, what moneys were made, and how the profits were treated upon the various accounts? A. Yes.

MR. HUGHES: Those two pages I offer in evidence.

(Marked Exhibit 204 A and 204 B.)

*Testimony of Henry Rogers Winthrop*

Q. Have you been able to find, since the adjournment, any entry of the authorization of the division of the Equitable Society of its participation in the Chicago, Burlington & Quincy purchase syndicate? A. I have not looked through the books again. I took the statement from the people who had looked through them that they had not found it.

Q. So we may assume, until the contrary appears, that there was no authorization. A. I will make a personal examination and report.

Q. I wish you would make the efforts to ascertain who made that division, what officer did it, and under what authority. Have you any further information than you had yesterday as to the various matters which were the subject of inquiry? A. Well, I have been told that the Pittsburg & Toledo is a road that is about to be built connecting the Wabash Railroad with the City of Pittsburg.

Q. It is a road about twenty miles long, is it not? A. I think so, with very valuable terminal properties.

Q. Dependent wholly upon the plans of the management of the road which it connects? A. Yes.

Q. Having no value in itself as a money making proposition, aside from its connections with two important lines of roads? A. And valuable properties that it owns.

Q. Do you know what those properties are? A. No, sir.

Q. I have asked you to produce a record of the stock transferred from June 1st to September 7th, 1905, and you have produced such a record, which I understand is a correct statement taken from the books? A. Yes, sir.

MR. HUGHES: I offer it in evidence, together with the accompanying explanatory statement, which has been furnished by the company.

(Papers marked Exhibits 205 and 206.)

*Testimony of Henry Rogers Winthrop*

MR. HUGHES: Record of stock transfers from June 1st to September 7, 1905, inclusive.

It appears that on June 13th there was a transfer of 342 shares to Thomas F. Ryan, June 21st, a transfer of 342 shares from Thomas F. Ryan to Grover Cleveland, etc., as trustee.

June 21st a transfer of 5 shares from Melville E. Ingalls to Paul Morton.

June 24th a transfer of 8 shares from Jane R. Phillips, 4 shares to John D. Bryant, and 4 shares to Harrison & Smith. July 15th a transfer of 5 shares from William H. Baldwin, Jr., to Franklin H. Hazleton.

July 17th a transfer of 15 shares from H. R. Winthrop, 5 shares to George J. Gould, 5 shares to Levi P. Morton, 5 shares to Thomas T. Eckert.

July 17th a transfer of 5 shares from A. J. Cassatt to Valentine P. Snyder.

July 17th a transfer of 45 shares from W. B. Bremner as follows: 5 shares to F. W. Roebbing, 5 shares to J. J. Albright; 5 shares to E. B. Thomas, 5 shares to Joseph Bryan, 5 shares to Thomas Spratt, 5 shares to Nevada N. Stranahan, 5 shares to D-Cady Herrick, 5 shares to Nicholas Murray Butler, 5 shares to Charles H. Zehnder; also five shares from Thomas D. Jordan to Paul Morton.

July 18th a transfer of 160 shares from various individuals to Grover Cleveland and others, trustees.

On July 20th a transfer of 5 shares from H. R. Winthrop to Sir William C. Van Horne.

July 25th a transfer of 5 shares from Nevada N. Stranahan to W. B. Bremner.

July 25th a transfer of 5 shares from W. B. Bremner to H. R. Winthrop.

*Testimony of Henry Rogers Winthrop*

July 26th a transfer of 5 shares from Charles B. Alexander to Samuel M. Inman.

July 26th a transfer of 5 shares from Sidney Dillon Ripley to James H. Hyde.

(Exhibit No. 205.)

MR. HUGHES: The statement accompanying this transfer and explanatory of it, furnished the Committee, is Exhibit No. 206.

Q. Prior to the making of the transfers to which allusion is here made, you were the registered owner of 27 shares of the stock of the company? A. Yes, sir.

Q. The actual owner of those shares was who? A. I don't know.

Q. There was some testimony taken before superintendent Hendricks on that point? A. At that time I testified that I believed James H. Hyde was the owner, because I paid—handed over the checks for the dividends to him endorsed in blank. Superintendent Hendricks' reports that those—that other information that he received showed that those shares were owned by Mr. Charles B. Alexander and Mr. Jordan.

Q. And the same is true of the 45 shares of Mr. W. B. Bremner to which allusion is made in this statement? A. Yes, sir.

Q. For the purposes of the record I desire now to direct your attention to certain transactions relating to compensation of officers of the Society. In February, 1888, Henry B. Hyde was the president, and James W. Alexander was the Vice-President of the Society, and they continued to hold their offices until the death of Mr. Hyde in 1899? A. Yes, sir.

Q. Will you state whether on the 2d day of February, 1888, the Finance Committee of the Society passed the resolutions

*Testimony of Henry Rogers Winthrop*

which I now show you? A. It doesn't appear in full on our minutes.

Q. You understand that there is a claim that there was a special minute of the character now shown you adopted at that meeting which is not spread in full upon the books of the Society?

A. The minutes of the Finance Committee of February 2, 1888, have the following minute:

"The compensation of certain officers of the Society was considered and a special minute in relation thereto was adopted and ordered to be filed."

Q. Have you seen the original of that special minute? A. I have seen the original of the special minute relating to H. B. Hyde.

Q. Yes. A. I have never seen the one relating to James W. Alexander.

Q. And who showed you the minute relating to Mr. Henry B. Hyde's interest? A. It was furnished to me to show Mr. Morton by Mr. McIntyre, and we then made a copy of it and returned the original to him. It has either been shown to Mr. Morton or to Mr. Macfarlane who was employed as special counsel in this case.

Q. And do you know by whom? A. Mr. Henry M. Alexander, I believe.

Q. Now, is this the minute purporting to have been adopted in the meeting of February 2, 1888, of the Finance Committee, which was presented by Mr. McIntyre as relating to Mr. Hyde? A. Yes, sir.

MR. HUGHES reads Exhibit No. 206A.

Q. Subsequently was there an agreement executed in the form now shown you in behalf of the Society with Henry B. Hyde? A. Yes, sir.



*Testimony of Henry Rogers Winthrop*

MR. HUGHES reads Exhibit No. 206B.

Q. And is this the special minute that was presented with reference to Mr. Alexander's interests? A. I believe so. I have never seen the original of this one.

Q. This is embraced in Mr. MacFarlane's opinion? A. Yes, sir.

Q. We may assume it to be correct? A. Yes, sir.

MR. HUGHES reads Exhibit No. 206C.

Q. And thereupon the agreement, under date of November 6th with Mr. Hyde, the one already mentioned and what is now shown you, was entered into with Mr. Alexander? A. Yes, sir.

MR. HUGHES reads Exhibit No. 206D.

Q. Now, the minutes as they appear in your books of that meeting are as stated in this paper? A. Yes, sir.

MR. HUGHES reads Exhibit No. 206E.

Q. What action has been taken by the Society with regard to these payments mentioned in the two agreements. A. At a meeting of the Board of Directors recommendations in that opinion were adopted, that is, that compensation be disallowed.

Q. And when you refer to an opinion, you mean the opinion of the counsel retained by the society, Mr. Wallace Macfarland. A. Mr. Macfarland, yes, sir.

Q. And what you mean by the recommendations in that opinion in short is that the payments should be discontinued? A. Yes, sir.

Q. And the agreements cancelled. That is it, is it not? A. No, sir.

*Testimony of George Walbridge Perkins*

Q. I mean you denied responsibility upon it? A. Denied any further responsibility.

Q. This paper now shown you is a summary of the George H. Squire Trustee Account as it appears in the books, Exhibit 192 for identification, kept by Mr. Greaves? A. This is just a copy of it, that is all.

MR. HUGHES: You may step aside.

HENRY GREAVES, recalled.

BY MR. HUGHES:

Q. This that you now produce is a statement taken from the book, Exhibit 192 for identification, showing the moneys which you entered in that book to the credit of the George H. Squire Trustee Account, and those which were debited against that account and furnishing a complete transcript of that account as it appears in your book? A. Yes, sir.

MR. HUGHES: I offer that in evidence.

(Marked Exhibit 207.)

MR. HUGHES: Mr. Perkins, will you take the stand.

GEORGE W. PERKINS, recalled.

THE WITNESS: May we take up unfinished business, Mr. Hughes?

BY MR. HUGHES:

Q. That is my intention. The first thing I would like to di-

*Testimony of George Walbridge Perkins*

rect your attention to is the matter of the International Navigation Syndicate which was brought out the other day in the examination of an officer of the Equitable Life Assurance Society that the society was the purchaser of certain Navigation bonds at 92½. I have been informed since by you and by others, that the syndicate there referred to was an entirely different syndicate. Do you desire to make any statement with regard to that?

A. I thank you very much. I should like to. That was an entirely different syndicate, a syndicate formed, I think, something like eighteen months, possibly two years, after the Mercantile Marine Syndicate, and to take six millions or thereabouts of bonds, of one of the subsidiary companies of the Mercantile Marine Company. And these bonds, the syndicate participants, received at the price stated by Mr. Winthrop, namely: 92½, and in that syndicate the New York Life had no interest whatsoever. Quite a different undertaking entirely.

Q. Those bonds in that syndicate in which the Equitable were interested were worth about 92½ at the time they took them?

A. Yes, sir. That was the——.

Q. And what were the bonds called for, or the participation certificates, in the principal syndicate, worth at that time? A. Well, I really don't know. Let me see, 1903—participation certificates in a syndicate never have any market value; they are never quoted, and in my experience I believe it is the custom of all parties in syndicates to regard their participations to be worth par until the syndicate, whatever it may be, is liquidated, or at whatever price they pay for it. I say par as I mean the par value of the cash put into it. If that cash was 92½, then that would be the value, or if they withdrew the bonds then it would be the value of the bonds.

Q. Were any bonds outstanding of the class referred to in that syndicate transaction of the International Mercantile Marine?

A. You mean in the six million dollar syndicate?

*Testimony of George Walbridge Perkins*

Q. No. I mean the principal syndicate. A. At that time?

Q. Yes. A. Not that I know of, sir.

Q. And so far as you know, there were no quotations for interests in the syndicate at that time? A. No, sir.

Q. Have you produced the certificate of participation that the New York Life Insurance Company had on December 31st, 1903, in the International Navigation Syndicate? A. This memorandum has been prepared on that. We had the regular original syndicate participation receipt—the New York Life had of J. P. Morgan & Company. This was surrendered on December 31st, 1904, for a similar participation receipt which we exhibited to you when I was last on the stand.

Q. What certificate of participation did the New York Life have on December 31st, 1903? A. The regular participation receipt of J. P. Morgan & Company.

Q. For how much? A. I don't know, but they can get that easily enough.

Q. I want to see that original participation syndicate. A. Mr. Mattison, can you get that?

MR. HUGHES: Have you got it here?

MR. MATTISON: I have, sir, the one that we had here the other day.

MR. HUGHES: Well, that is the one that you received on December 31, 1904, or which you surrendered at that time?

THE WITNESS: Of course, we have surrendered the other one, Mr. Hughes.

Q. I know that, but J. P. Morgan & Company have it and I asked for it quite distinctly. A. I didn't understand it. Very

*Testimony of George Walbridge Perkins*

good. I think we can—that is a cancelled certificate and we can get that. Very good.

Q. I understand that, but want to know what you had on December 31st, 1903, the original document. A. Very good. Mr. Mattison, remember that, and we can bring it this afternoon.

Q. There was one other matter in regard to that Navigation Syndicate which I think I asked you for, and that was, was there any minute or resolution of any Committee authorizing the sale to J. P. Morgan & Company of \$800,000 of that participation on December, 31, 1903? A. There was no resolution offering the—confirming—or authorizing that sale to J. P. Morgan & Company. It was generally understood by the Committee that, when we got that extra \$800,000 that we were to sell it and it was in my hands for sale, as I have previously described.

Q. Was there any authorization or approval of your action in buying back the \$800,000 interest on January 2, 1904? A. No, sir; there was no authorization for that.

Q. And no approval of it? A. No approval of that, because that was made as I have explained before, in a general plan to realize the largest sum I could for that participation.

Q. Well, you have answered the question. A. Well, I would like to say also why I did it.

Q. Now, the next matter that I referred to was purchases on December 31st, 1902, from J. P. Morgan & Company, as follows:

|                                                 |             |              |
|-------------------------------------------------|-------------|--------------|
| Chicago, Burlington & Quincy, Illinois Division |             |              |
| 3½'s                                            | at 96 ..... | \$500,000    |
|                                                 | Paid .....  | 480,000      |
| Northern Pacific, Prior lien 4's .....          |             | 1,500,000.   |
| at 102,                                         | Paid .....  | 1,530,000    |
| C. C. C. & St. Louis 4's .....                  |             | 2,000,000    |
| at 97.66,                                       | Paid .....  | 1,953,333.33 |

*Testimony of George Walbridge Perkins*

Those in fact were all purchased on December 31, 1902, and the prices stated were paid to J. P. Morgan & Company. A. Yes, sir. I have a statement of that, Mr. Hughes.

Q. Were those purchases from J. P. Morgan & Company authorized by the Committee? A. Yes, sir. May I read the statement I prepared about that? I think it makes it clear.

Q. Yes. A. On September 8, 1902, I was authorized by the Finance Committee, as Chairman, to buy up to \$5,000,000 at par value of a forthcoming issue of St. Louis Terminal 4 per cent bonds at 102 less one per cent. I bargained for these bonds and finally bought four millions at par, which was one per cent, or \$40,000 better than my instructions from the Finance Committee. As it was our practice where an engagement is entered into, this \$4,000,000 was reserved for the purpose of taking up these bonds and was not considered liquid cash, but invested cash.

Q. Will you stop there a moment, Mr. Perkins, and tell me how you reserved such an amount? A. Well, we have a little—a sheet about as long as that (indicating) that comes before the Finance Committee at each meeting, that shows the cash in bank and cash—obligations we are under for cash, etc. That was indicated always on our sheet to show the Committee what available cash we had as working capital. The understanding was that these bonds were to be delivered to us on or before the end of the year. Unexpected delays came in connection with legal matters in the completion of these bonds, as they were to be jointly guaranteed by the Big Four, the St. Louis, Vandalia, Terra Haute, the Missouri Pacific, the St. Louis, I. M. and Southern Railway, the Wabash, Baltimore & Ohio, and Louisville and Nashville, St. Louis & San Francisco Chicago, Rock Island & Pacific, the Southern Railway, the Illinois Central, Chicago & Alton, C. B. & Q., Missouri, Kansas & Texas, and we considered, of course, it an extremely valuable bond. The

*Testimony of George Walbridge Perkins*

delivery was not made up to the close of the year, and the company insisted on its money being invested on a four per cent. basis, and took from J. P. Morgan & Company, against the four million dollars of St. Louis Terminals, the three items above mentioned aggregating four million of dollars, and all paying four per cent., excepting the C. B. & Q., Illinois Division, 3½'s, and the difference between this 3½ on said bonds and the four per cent. was paid over to the New York Life Insurance Company by Morgan & Company, to make the original contract of a four per cent. investment good. On the 16th of February in the following year Morgan & Company were able to deliver the four millions of completed St. Louis Terminal bonds, as above contracted for, and we then returned to Morgan & Company \$500,000, Illinois Division 3½, and a million and a half Northern Pacific, prior lien 4's, at the identical price at which we had taken them, having had four per cent. on our money meanwhile. On April 29th, we returned the two millions of the Big Fours at the same price at which we had taken them, having had four per cent. on that money meanwhile. This completed the transaction.

Q. Will you let me see the statement? A. Yes, sir.

Q. What form did that purchase of \$4,000,000 at par St. Louis Terminal bonds take? A. I think I have stated it took the form of authority given me by the Finance Committee to buy \$5,000,000 par value of these bonds at 102, less one per cent., but I succeeded in buying them at par—101, less one per cent.

Q. That was the transaction? A. Yes, sir.

Q. And your agreement to buy \$4,000,000 bonds, was it verbal or written? A. Well, I think—it may have been written, and it may have been verbal. Sometimes contracts are written; sometimes they are verbal.

Q. You have no recollection as to which this was? A. No, sir.

Q. With whom did you make the agreement? A. How do you mean?

*Testimony of George Walbridge Perkins*

Q. With what individual? A. Well, I don't recall. I knew, of course, about the purchase of the bonds by Morgan & Company, and considered them very desirable, and I brought the matter to the attention of the New York Life Insurance Company.

Q. Well, did you make this agreement with any other person than yourself? A. I don't recall whether I talked it over with any one else in the Morgan firm. Probably I did with the other partners, but quite likely, as I have done in other instances, I made the transaction myself.

Q. You are unable at the present moment to state that you made it with any other person than yourself. A. No. I should say that I conducted the transaction there as I have many other transactions as a member of the firm.

Q. Did any other person on behalf of the New York Life Insurance Company, besides yourself, engage in this matter on its behalf? A. Yes, sir; the members of the Finance Committee:

Q. In their authorization? A. Yes, sir.

Q. But in the actual conduct of the transaction in making the agreement of purchase, did any other person of the New York Life Insurance Company act on its behalf besides yourself? A. Well, I suppose after the Finance Committee had given me authority to buy these bonds at 102, less one, and I bought them at 102, less 2, that the Finance Committee thought probably that I at least carried out their instructions, having saved \$40,000 over what they were willing to pay for the bonds.

Q. Now, will you kindly answer the question. A. Did I not answer it?

Q. No, sir. A. Please ask it again.

MR. HUGHES: Read it.

(Question read by the stenographer.)



*Testimony of George Walbridge Perkins*

A. I have already stated that the Finance Committee acted on the whole transaction, and as that minute here shows, referred it to me with power to buy them at 102, less 1.

Q. Mr. Perkins, you thoroughly understand my question. You have said that the Committee authorized it, and it has been very clearly put? A. Yes, sir.

Q. Now, when you entered into the transaction of making this agreement pursuant to that authorization, did you solely act on behalf of the New York Life, or did any other officer act on its behalf with you? A. This minute, sir, shows that I acted and made the trade.

Q. You did it? A. The details of taking the securities, and the bookkeeping, if that is what you are getting at, of course I never do.

Q. That is not what I am getting at. I am talking about the agreement of making the purchase with J. P. Morgan & Company. Did anybody beside yourself act in making the agreement of purchase? A. The original memorandum I had says clearly that I bargained for the bonds, and finally bought four millions at par, which was 1 per cent., or \$40,000, better than my instructions from the Finance Committee.

Q. I say now, when you bargained for the bonds, did you bargain for them with any person other than yourself? A. I can't recollect, but I think I did it myself, probably. I would like to call attention, Mr. Hughes, to the fact that in these transactions, I acted under an agreement with the policyholders of the New York Life Insurance Company to represent them, and do my best for them at a salary of \$25,000, and I have done it.

Q. Now then, when you, as a result of this negotiation, entered into an agreement to obtain \$4,000,000 at par of these bonds, as I understand it, before the end of the year, it became apparent that J. P. Morgan & Company were unable to make delivery? A. Quite right.

*Testimony of George Walbridge Perkins*

Q. What memorandum or paper did the New York Life Insurance Company have to show that J. P. Morgan & Company had agreed to make that delivery before the end of the year? A. I don't know that we have any memorandum, but agreements of that sort among banking houses and financial institutions are just as binding by word of mouth, as by agreement, as you doubtless know.

Q. Well, this hardly required a word, because you were dealing with yourself. A. I beg pardon, I was representing the New York Life in this transaction with Morgan & Company.

Q. Undoubtedly, but I am talking about the actual physical occurrences, apart from such limitations. A. That would have been stated, as all transactions of this sort are, to Mr. Randolph, who keeps the records of all such transactions.

Q. That is what I want to get at. When this agreement was made to buy four million of bonds what was there to show there was such an agreement on the records of the New York Life? A. Either a statement verbally to Mr. Randolph, who was the recording officer of all such transactions, or it may have been a letter. I don't know as to that, but that is immaterial.

Q. Well, the first point, was it verbal? A. As I say, sir, I do not know, but whether it was verbal or in writing it existed.

Q. Are you able to point now to any memorandum or document on the records of the New York Life Insurance Company showing that there was an agreement made to buy four million of these St. Louis Terminal bonds from J. P. Morgan & Company? A. I am not. There may be such a memorandum, but whether there is or not, the treasurer of the company will confirm what I say, if it is necessary to question my words on that subject.

Q. No, we are not questioning your word, but we are trying to get at the course of business and we are trying to get at just what happens when you decide, acting for the policy holders on the one hand and acting for J. P. Morgan & Company on the other

*Testimony of George Walbridge Perkins*

hand, that it is a good thing for the New York Life Insurance Company to buy those bonds, just what record of the transaction is made on the New York Life's books? A. In each and every case a record is made or I report it at once to the treasurer, and in no case have I ever followed out the details of the transaction after negotiating it. For instance, although I have authority to draw checks under the By-laws I have never drawn checks. I have felt that the supervising officer, the treasurer who is responsible for the handling of the securities, is the one to handle that part of the business, so the officer who negotiated it and the officer who handled the transaction would be two separate people.

Q. You put it in the alternative, that it was either mentioned to the treasurer or there was some record of it? A. Yes.

Q. If there was any record of it who would have made that record? A. The treasurer.

Q. And he would have made the record on the basis of your statement to him? A. Yes, sir—I beg your pardon, Mr. Hughes, on the basis of my statement that I closed the transaction, at one per cent better than my instructions from the Finance Committee, who gave me the authority.

Q. Well, whatever it was, better or worse, he would make it as you told it to him? A. As I told it to him, complying with my instructions; he had both the instructions and the result of my instruction.

Q. He had the record of the Finance Committee's action and the report of what you had done? A. Yes.

Q. And that report in this case you are quite sure you made to him? A. Yes, sir, I know I did, and he remembers it.

Q. Do you remember about when you made that report? A. Yes, sir, at the time of the transaction.

Q. Have you the date of that? A. September, 1902.

Q. But you don't know whether he made any record of it in any book? A. No, I think the chances are that he did not.

*Testimony of George Walbridge Perkins*

Q. Of course, the New York Life was just as much bound by that as J. P. Morgan & Company? A. Quite so.

Q. So they had entered into an obligation on that to take four million of bonds? A. Yes.

Q. And it would be appropriate that such a matter should not be left to the memory of officers who might die, but there should be a record of it? A. I will tell you where the record undoubtedly did appear, that is the record of our engagements right along, showing that we had set aside four million dollars.

Q. That is a good suggestion and I am glad you have made it. A. Those memorandums all are there.

Q. When this matter came up towards the end of the year was there any special reason why you should have made a demand on J. P. Morgan & Company to deliver you other securities when they could not deliver you the four millions? A. Yes, sir.

Q. They were perfectly good, were they not? A. I think—I don't think it is proper for me to answer that question among other things.

Q. I do not quite understand why it was on December 31st, 1902, you should be so anxious to get from J. P. Morgan & Company something in the nature of a security from them? A. Because we had set this aside as money invested, four million dollars.

Q. But you had the money? A. We had the money, but we had the contracts for these bonds and the money was earning us four per cent and we wanted securities which would represent four per cent. And I want to call attention to the fact that we made J. P. Morgan & Company deliver us those securities, and on one batch which only gave us  $3\frac{1}{2}$  per cent we made J. P. Morgan & Company make up the difference to 4 per cent.

Q. When were they to deliver you these under the original agreement? A. It is stated here, they were to deliver before the first of the year.

*Testimony of George Walbridge Perkins*

Q. You wanted 4 per cent. securities? A. Yes, we insisted upon getting them, and that is what we got.

Q. Had you any memorandum from J. P. Morgan & Company that you were entitled to those at any particular date, or was that embraced in the treasurer's memorandum made at the time of your report? A. That would be embraced in the treasurer's report.

Q. Has he some record of it, that you were entitled to those before the end of the year? A. No, except the statement given by me, that was the record, either in the blotter or in a memorandum, as I have said before, Mr. Hughes, and I want to call it to your attention, a verbal agreement between bankers and any institution to which they sell is just as binding, you know, as any written contract is, and a great deal of that business is done in just that way.

Q. Of course, those matters are settled rather quickly, are they not? A. Sometimes they are and sometimes it is a matter of a day or two.

Q. If J. P. Morgan & Company were to deliver to you, the New York Life Insurance Company, four millions of bonds by a certain time, ordinarily there would be a record on their books of that, would there not? A. If they were to deliver at a certain time?

Q. Yes. A. No, there might be no record of a matter of that sort.

Q. Suppose you had suddenly died, what would J. P. Morgan & Company have had to show that they were bound to deliver four million dollars of St. Louis Terminals? A. They would have had the memorandum which was made on the books, that the bonds had been sold at that price.

Q. There would be that memorandum? A. Yes.

Q. That was made when? A. At the time of the purchase.

Q. September 8? A. Somewhere thereabouts.

*Testimony of George Walbridge Perkins*

Q. That, of course, you can produce, and I should like that.  
A. I can bring you the entry of that item.

Q. I should like to have the book produced. A. No, sir, not the book, but I will bring you the entry. You are talking of J. P. Morgan & Company now?

Q. Yes. A. I will bring the entry.

Q. I want the book containing that entry produced. A. I cannot say as to that.

Q. Well, we shall have to require the production of it. A. Very good. That we can take up later.

Q. Now, then, this went over into 1903, and when was it that J. P. Morgan & Company delivered the St. Louis Terminal 4 per cent. bonds? A. I think the memorandum I handed you shows that it was on the 16th of February.

Q. Here I find it in the list of purchases, Terminal Railroad of St. Louis, 4 millions of bonds? A. Am I correct about that, February 16th?

Q. Quite correct, at 101, cost \$4,040,000? A. Yes.

Q. Now, on that day you delivered back—pardon me a minute—that was an entire compliance with the agreement? A. That was the completion of that negotiation; yes, sir.

Q. And on that day you delivered back to J. P. Morgan & Company the C. B. & Q. Illinois Division 3½'s and the Northern Pacific Prior Lien 4's aggregating \$2,000,000 in par value and \$2,010,000 in cost price? A. Yes, we delivered those back at the identical price we had taken them at.

Q. Can you explain why it was you did not deliver back the C. C. C. & St. L. general 4's at two million which you had received December 31, 1902? A. I asked Mr. Randolph about that and his impression is that we kept those along, debating whether we would buy them or not, and finally, believing we could buy them cheaper, and having the arrangement by which we could deliver them back to J. P. Morgan & Company at the

*Testimony of George Walbridge Perkins*

original price, we did so on April 29th, and subsequently we did buy some of those bonds, a month or two later, at a lower price, showing our judgment in that matter was correct.

Q. But, as I understand, J. P. Morgan & Company had delivered these three sets of securities to you on December 31, 1902, practically as security for the performance of their obligation to deliver you four million dollars of St. Louis Terminals?

A. They delivered them in lieu of the others, until they could deliver the others.

Q. And when they delivered the others they were entitled to these three back? A. Yes, but as I say, we were debating the purchase of these.

Q. Well, you were debating the purchase of them, I understand, but you had already in form bought and paid for them?

A. We had taken them in lieu of the other bonds.

Q. You had taken them? A. Yes.

Q. And had taken the others, too? A. Yes.

Q. So, instead of debating it, you had actually consummated it, and when the time arrived at which J. P. Morgan & Company would have been entitled to a redelivery of those, you kept them and did not redeliver them? A. We did for a few intervening weeks.

Q. Well, for a period of more than two months? A. Yes.

Q. From February 16th to April 29th? A. That is right, sir.

Q. When on February 16th these securities were returned to J. P. Morgan & Company, with the exception of the C. C. C. & St. L.'s, you yourself thought it best to keep those? A. No, I was not interested in that transaction.

Q. Who did attend to it? A. That was—the details of it were taken care of, as I have described before in all such transactions, by Mr. Randolph, but we were debating the question of whether we would keep these two millions and we finally decided not to keep them, and returned them to J. P. Morgan & Company at the

*Testimony of George Walbridge Perkins*

price they were originally taken for, receiving 4 per cent. interest on our money meanwhile, and then, as I say, our judgment was correct in that we should not have kept them, because about a month or six weeks later you will notice we bought some of these very bonds at one per cent. less than we returned them to J. P. Morgan & Company at.

Q. Let us come back to February 16th, 1903, when you got the four millions of bonds from J. P. Morgan & Company. Normally under the agreement to which you have testified, you should have returned all those securities.

Q. Now, who, what officer of the New York Life, then decided to keep the C. C. P. & St. Louis, even temporarily? A. Well, I cannot testify from memory as to that.

Q. Was it you? A. I don't recollect.

Q. You don't remember? A. No, sir, I don't think I do, but it was in the regular course of business, while we were debating whether we would keep them or not.

Q. You say it was in the regular course of business? A. I mean in this respect, we always have on hand securities that we are debating as to whether we will buy or will not. That is a condition always existing.

Q. In this case you had securities in your hand for which you had paid? A. And which we could return to J. Pierpont Morgan & Company at our option at the original price.

Q. What you were debating really was whether you would keep them or return them? A. Yes, we had a right to return them at the original price.

Q. Who was it that was debating that, ordinarily, in the ordinary course of business all those would have been returned? A. No, any item of business which is not concluded is a business under discussion, and this was one of the unfinished pieces of business that we had not decided to keep them or return them,



*Testimony of George Walbridge Perkins*

we were debating it, and did return them and bought them cheaper.

Q. You can answer first as to your own action in the matter. On February 16th, 1903, did you have anything to do with the return of the two sets of securities that were returned? A. No, sir, it was a routine piece of business.

Q. Did you have anything to do with the retention of the C. C. C. & St. Louis bonds? A. I did in that we were all discussing whether we would keep them or not.

Q. At that time? A. Yes.

Q. With whom were you discussing it? A. In a general discussion of the Committee.

Q. Was it brought up before the Committee? A. It was discussed in the committee, like a thousand other things. It may have been——

Q. Do you recall any particular individual with whom you debated whether they should be returned back to J. P. Morgan & Co. or should be retained? A. Mr. Hughes, I suppose we have had probably in the last three or four years three or four thousand or maybe eight or ten thousand transactions like this, and I would not pretend to charge my memory with each one in detail.

Q. Then your answer is you do not recollect? A. No, my answer is as I have made it.

Q. And it is as I have construed it? A. That is for you to construe.

Q. Yes. Now, you referred to the minutes of the meeting as not disclosing everything necessarily in the form of discussion that takes place. Can you point to any resolution of the Finance Committee which takes up the matter of the acceptance of these three securities on December 31st, 1902, as against J. P. Morgan & Company's obligation to deliver \$4,000,000 of St. Louis Terminals? A. No, sir, there is no such minute. I have looked for it.

*Testimony of George Walbridge Perkins*

Q. What officer on behalf of the New York Life took up the question with J. P. Morgan & Co. that these three securities should be accepted provisionally in lieu of the St. Louis Terminals? A. Oh, that was discussed in the committee, but there is no record of it.

Q. What officer actually took up the negotiations with J. P. Morgan & Company? A. The treasurer.

Q. Mr. Randolph? A. Yes, he always did.

Q. And with what individual as a member of the firm of J. P. Morgan & Company did he take it up? A. I don't know. I would be glad——

Q. It was not with you? A. It may have been, but I think not. That, you see, would be a detail between one of our officers of the New York Life and one of the men in charge of such things as J. P. Morgan & Co. It was not an executive action.

Q. I am referring now to the action of December 31, 1902. A. I appreciate that and I am saying it was not an original creative thing.

Q. When it came to the delivery of the two securities on February 16th, and the retention of the C. C. C. & St. L. on that day, is there any minute of any action taken by the Finance Committee? A. I have not looked for that, but there may or may not have been a minute, but it was a matter of discussion.

Q. As a matter of fact was not the purchase on December 31st, 1902, of these three securities authorized? A. Yes, sir.

Q. I mean the purchase of the C. B. & Q., Northern Pacific Prior Lien and C. C. C. & St. Louis? A. Well, I would not put it a purchase; I would put it that they were taken in lieu of the other bonds.

Q. Was there any minute regarding those securities at all on your books? A. I do not find that there was any minute.

Q. Nothing at all about it, either purchase or acceptance provisionally? A. I have not looked at that, no.

*Testimony of George Walbridge Perkins*

MR. HUGHES: Are those minutes here for December, 1902?

THE WITNESS: 1903, you mean.

MR. HUGHES: No, it is 1902.

THE WITNESS: But a matter of that sort would hardly be a matter of action in a minute. It would be a matter of discussion by the members of the Committee or calling them up over the telephone as we do by telephoning Mr. Orr or Mr. Clafin, Mr. Kennedy and so on, and saying in the business of the day would you do this or that, and how would you handle it.

Q. That may be the general course, but I wanted to see what the action was in this case? A. That would be our natural course.

BY THE CHAIRMAN:

Q. Mr. Perkins, were those bonds sent up to the New York Life in any sense on approval, so to speak? A. May I ask what bonds you refer to?

Q. The bonds in December, 1902? A. Do you mean the three C's and these other bonds?

Q. Yes. A. These bonds would not need to have approval in that sense because they are well known standard bonds.

Q. I mean sent up to the New York Life and sold to them on approval, subject to their approval? A. You mean did the New York Life say whether those bonds were satisfactory to it to take in that connection?

Q. Yes. A. Yes.

Q. They need not keep them unless they wanted to? A. No, we could have rejected any of those and insisted on other bonds. You will notice in that connection one of the bonds only bore

*Testimony of George Walbridge Perkins*

3½ per cent and J. P. Morgan & Co. had to make that interest good up to 4 per cent.

Q. I understand there is not any difference in that transaction more than I would have, if a merchant sent me up a rug on approval, if I was pleased with it I would keep it and return it if I did not like it? A. Yes, sir, it was at the option of the New York Life.

BY MR. HUGHES:

Q. Except in this case the rug was paid for at the time of the delivery? A. No, sir, other rugs had been paid for. It was a question whether we would accept these rugs in lieu of the other rugs, and that was at the New York Life's option.

Q. What you did as a matter of fact was this, on December 31, 1902, and that date by the way is correct, 1902, the New York Life received C. B. & Q., Illinois Division, 3½ 500,000 and paid J. P. Morgan & Company \$480,000 at 96; it received Northern Pacific prior lien, \$1,500,000, at 102 and paid \$1,530,000; it received C. C. C. & St. L., \$2,000,000 at 97.66 and paid J. P. Morgan & Company \$1,953,333.33. Then, on February 16, 1903, the New York Life received from J. P. Morgan & Company terminals of St. Louis 4's 4,000,000 at 101 and paid J. P. Morgan—— A. Less one per cent.

Q. (Continuing) and paid J. P. Morgan & Company \$4,040,000. On the same day the New York Life sold to J. P. Morgan & Company C. B. & Q., Illinois Division 3½, 500,000 at 96, for \$480,000, and Northern Pacific prior lien \$1,500,000 at 102, making \$1,530,000 and on April 29th, the New York Life sold J. P. Morgan & Company C. C. C. & St. L. General 4's, \$2,000,000 at 97.66, making \$1,953,333.33. So that, between December 31st and February 16th, J. P. Morgan & Company had the money of the New York Life for the three securities and the close of the transaction on

*Testimony of George Walbridge Perkins*

February 16, 1903, J. P. Morgan & Company had the money of the New York Life for the terminals of St. Louis, and for the C. C. C. & St. L., and that continued to be the case down to April 29th, when Morgan & Company took the C. C. C. & St. L. back from the company. A. At the original price they had paid for them.

Q. So it varies in that respect from the ordinary memorandum or on approval transactions? A. I beg pardon?

Q. I say it varies in that respect from the ordinary memorandum or on approval transactions, but the facts have been stated.

A. With this exception, if you will allow me, that we look to our original memorandum to get \$4,000,000 of these original bonds at the price which the Finance Committee had desired to buy them at, and which I secured at \$40,000 less than they approved their purchase at, and which we now hold, and they are among the most desirable securities that any life insurance company holds.

Q. You have explained what your programme was, and the facts as to your purchases and sales are as stated. A. I have a memorandum on this Hegeman matter.

Q. I was just coming to that. That is the next point on the list. We were asking you about the loan to J. R. Hegeman. Is he a director of the New York Life Insurance Company? A. No.

Q. Is Mr. McCall a director of the Metropolitan Life Insurance Company? A. No.

Q. Was this loan with Mr. Hegeman obtained for himself, as far as you know? A. It was a loan that he obtained in the regular course of business. The loan in question has not been carried to date at  $1\frac{1}{2}$  per cent., but has been carried as a demand loan subject to varying rates of interest, according to the value of money. From October 16, 1902, to April 1, 1904, the loan carried at four per cent. interest. Since that time up to the present time it has carried at  $2\frac{1}{2}$  per cent. It is a call loan, and we have the right to call it or change the rate of interest when

*Testimony of George Walbridge Perkins*

we wish. You asked me about the value of the securities, if I would look them up. I find the securities for this \$50,000 loan were valued in January, 1902, at \$69,255, and that the present value of these securities is \$72,955.

Q. Have you the book here showing that loan, or the entry of it? A. No. sir.

MR. HUGHES: Has Mr. Mattison got it here, that Hanover Bank book, Treasury Department? Will you produce it, please.

Q. Mr. Perkins, what rate did you say the Hegeman loan paid interest at in 1902? A. The loan in question has not been carried at  $1\frac{1}{2}$  per cent. to date, but has been carried as a demand loan subject to varying rates of interest according to the value of money. From October 16, 1902, to April 1, 1904, the loan carried at four per cent. Since that time up to the present time it has carried  $2\frac{1}{2}$  per cent.

Q. What was it carried at prior to October 16, 1902? A. This memorandum does not state.

Q. Was it not  $1\frac{1}{2}$  per cent.? A. I should think it was from this memorandum, and now carried at  $2\frac{1}{2}$ .

Q. At the present time? A. Yes.

Q. I am talking about prior to that. You have carried it down regularly from October, 1902. How long before October, 1902, did it run at  $1\frac{1}{2}$  per cent. interest? A. I don't know. We can send you that data. Do you know, Mr. Mattison?

Q. Well, for a couple of years, was it not? A. I don't know anything about it.

Q. You can look that up, Mr. Perkins. A. Yes. Mr. Mattison, will you send that to Mr. Hughes?

THE CHAIRMAN: The Committee will now take a recess until 2.15 P. M.

AFTER RECESS.

2.15 P. M.

GEORGE W. PERKINS, resumed the stand.

BY MR. HUGHES:

Q. I was asking you with regard to the interest paid by Mr. Hegeman upon his loans prior to October 16, 1902, and I understand that that interest for some time had been at the rate of  $1\frac{1}{2}$  per cent. per annum. Can you tell me for how long a time that was so? A. I don't know, sir. I thought Mr. Mattison was going to look that up.

Q. Probably he has. Mr. Mattison hands me a memorandum stating January 2, 1902, \$50,000 at  $1\frac{1}{2}$  per cent.; October 16, 1902, 4 per cent.; April 1, 1904,  $2\frac{1}{2}$  per cent. I infer from that that the loan had been at  $1\frac{1}{2}$  per cent. from January 2, 1902, to October 16, 1902? A. From January 1st to October 16th?

Q. Yes. A. Yes, sir; I should assume that was correct.

Q. Now, what was it during 1901?

THE WITNESS: Have you that, Mr. Mattison?

MR. MATTISON: That particular loan was made on January 2, 1902.

MR. HUGHES: I understand that, but it was in effect a renewal of the loan of 1901?

MR. MATTISON: Yes.

*Testimony of George Walbridge Perkins*

MR. HUGHES: That is, it was taken up on November 1, 1901, and made again on January 2, 1902?

MR. MATTISON: The 1901 loan stood at  $1\frac{1}{2}$  per cent.

MR. HUGHES: Through the year 1901?

MR. MATTISON: Yes.

THE WITNESS: Had we one prior to that?

MR. MATTISON: Yes.

THE WITNESS: What was the rate of that?

MR. MATTISON:  $1\frac{1}{2}$  per cent.

THE WITNESS: Was there any prior to that?

MR. MATTISON: Yes.

THE WITNESS: What was the rate of that?

MR. HUGHES: Just give the dates and the rates.

MR. MATTISON: The loan was made January, 1900, \$43,000 at  $1\frac{1}{2}$  per cent.; May 7th, same year, \$7,000 was added to that loan at the same rate.

MR. HUGHES: That continued through 1900 and 1901 at that rate?

MR. MATTISON: Yes.



*Testimony of George Walbridge Perkins*

MR. HUGHES: That was the inception of the loan, was it, January, 1900?

MR. MATTISON: There were loans before that, but not for this particular \$70,000.

MR. HUGHES: What loans were there to Mr. Hegeman before that?

MR. MATTISON: I have just hurriedly gone over this. I find that on December 30, 1892, a loan was made for \$95,000 at 4 per cent., and May 22, 1893, a loan was made for \$125,000 at 4 per cent., later was reduced to 3 per cent., and July 28, 1897, a loan was made for \$18,000 at  $1\frac{1}{2}$  per cent.

MR. HUGHES: Yes.

MR. MATTISON: October 21, 1898, \$17,000 loaned at  $1\frac{1}{2}$  per cent.; February 27, 1899, loan for \$10,000 at  $1\frac{1}{2}$  per cent., on which there was a payment of \$17,000, leaving a loan of \$10,000, and on December 21, 1899, \$15,000 was added to that at  $1\frac{1}{2}$  per cent.

Q. Now, Mr. Perkins, were these loans to Mr. Hegeman brought under your observation when they were made? A. These loans you speak of now were before I was chairman of the Finance Committee, and as I have stated, and so as to get it as well as your statement of it, loans on collaterals are not brought before the Finance Committee. The officers of the company have power to make loans on prescribed collateral with proper margin, the same as the officers of a bank would have.

Q. Apart from the routine of the business were these loans made to Mr. Hegeman which ran at  $1\frac{1}{2}$  per cent. interest from

*Testimony of George Walbridge Perkins*

some time in 1898 for various amounts down to October 16, 1902, known to you? A. They wouldn't be known to me until I became chairman of the Committee. Then I knew, of course, all about that kind of loans; knew we had them.

Q. And when was that? A. That was on December, 1900—1st of January, 1901.

Q. When you ascertained that a loan was made to Mr. Hegeman at 1½ per cent. did you take any action about it? A. Well, that is purely from memory. I don't think we ever took any action in the Committee, Mr. Hughes.

Q. As a matter of fact, money for a large part of that period was worth more than 1½ per cent., was it not? A. You mean prior to January 1, 1901?

Q. Prior to October 16, 1902, and from January, 1901? A. Well, I wouldn't want to testify to that. I should say offhand, yes.

Q. That is the only loan that I find upon the list you have given me at that rate? A. Yes.

Q. Other loans appear to be at much higher rates. A. I fancy they all vary, but I should say for a part of that time that would be a low rate.

Q. Now, why was that loan made to Mr. Hegeman or continued to Mr. Hegeman at that rate? A. I do not know.

Q. Do you know who had the negotiations with Mr. Hegeman relating to the matter? A. No. I do not.

Q. I asked you the other day with regard to the profits made upon the sale of securities during 1901, that is, the sale of stocks? A. Yes. I have a memorandum of that, sir.

Q. Now, before you refer to your memorandum, will you note this on your report to the Insurance Department under date of December 31, 1901, I find under the head of income during 1901 the statement, "Net profits received from securities sold during the year, \$3,075,371.99. As a matter of fact the profits made

*Testimony of George Walbridge Perkins*

upon the sales of securities during the year were much larger than that, were they not? A. Yes, sir.

Q. They were upwards of \$5,000,000? A. Yes. Now, may I—

Q. Now, if you will explain. A. The profits on securities sold during that year were \$5,253,541.57; profits from other sources, \$585,545.59, making a total of \$5,839,087.16. From that there were deducted agents' balances, etc., charged off, \$1,919,734.29, to reduce the book value of real estate, \$843,980.88, making a total of \$2,763,715.17, which left a net profit of—is this right, \$3,075,371.99?

Q. Yes. A. When that sale was closed in 1891, we had a profit, as we stated, of five million two plus, five million two plus. We thought it a good opportunity to take out of our accounts items known as agents' balances, amounting to one million nine hundred and nineteen plus, which the insurance departments do not recognize as admitted assets but had always carried in our company and others as unadmitted assets, and we thought it was a good opportunity to get on a perfectly sound basis in the matter of those balances. You understand, of course that in charging this off it was purely a bookkeeping transaction. That in no way means that they were lost. It simply means that we thought it would be ultra-conservative to cease claiming any credit in assets for agents' balances and charged them off in this way, having made this very large sum in profits.

Q. As a matter of fact, the agents' balances were not \$1,919,734.29, but \$1,622,637.11, and the other part charged out was \$296,904.18 from the suspense account? A. I don't know as to that. These are the figures that are given me as agents' balances.

Q. I show you what purports to be copies of correspondence between Mr. Whitney as secretary of your company and one E. W. Cushman of the Insurance Department of Massachusetts.

*Testimony of George Walbridge Perkins*

Do you recognize those letters? A. No, sir. They seem to be a letter from the secretary of the company to Miss Cushman, the actuary of the Insurance Department of Boston. A copy you say that was?

Q. It was presented to me as a copy. A. Yes, sir. Well, the transaction, as I take it anyway, was that we felt that that was a good opportunity to eliminate from our assets, not an item that we thought was worthless, but an item that was not admitted by State Departments, and we thought it was a conservative way of handling the question of agency balances.

Q. Now, what I want to get at particularly is the bookkeeping of it? A. Then I wouldn't know about that, Mr. Hughes. You had better ask somebody else about that.

Q. It is a matter that is very apparent here? A. Well, that may be.

Q. And the manner in which it was treated upon your report for that year, in your report to the New York Insurance Department, you did not disclose the actual profits received from the sale of securities, nor did you disclose the fact that those profits had been reduced by deducting from them the amount of agents' balances, and other sums, bringing up an amount of \$2,763,715.17, but you merely stated that the net profits on sale of securities was the amount of \$3,075,371.99? A. Well, that is as it appears in the report.

Q. That is the fact? A. Yes, sir, but I don't think, Mr. Hughes, if you will permit me to say, that that is quite a fair way to put it, because the inference in that is that we tried to conceal something.

Q. Well, that is what I want to get at, whether you did or not? A. I don't think we did, except to use the word that we did in there.

Q. You used the word "net" but is there any reason why you should deduct your agents' balances from one particular item of

*Testimony of George Walbridge Perkins*

income? You were supposed, in this report, to state what your income really was. Now, you take a particular item of income and you deduct from that your agents' balances and certain matters of suspense and certain losses on real estate, and then put in as the item of income net profits on real estate. Now, why did you do that? Why didn't you state what your profits really were on securities, and then state what your balances were in the appropriate place in the report? A. Well, I don't make up the report, but I will say this on general principles about that, that I suppose if we had been as wise as Solomon on things of the past that we wouldn't have been writing life insurance, we would have been writing proverbs. We did this, as we thought, in the best way to do it, in our judgment.

Q. Is this the way——. A. Is it possible that that correspondence throws any light on that that you just showed me?

Q. If you can recognize these as accurate I would be glad to introduce them? A. I don't know anything about them.

Q. Because I understand them to be the information you forwarded to the Massachusetts Department? A. Well, I don't know anything about it.

Q. I call your attention to this in your report to the State of Massachusetts, you put net profits from securities sold, the actual item, just what it was, profit of \$5,253,541.57 and on the other side of the account you put the agents' balances and real estate just as they were? A. Then I should say that the gentleman making that report certainly did not mean to conceal anything. Connecticut may have called for it that way and New York did not call for it in that way. When we get national supervision we will not have these conflicting conditions between the different States.

Q. Of course, you don't have to wait for national supervision to make your reports correspond? A. I beg pardon, Connecticut calls for one kind of a report and Massachusetts calls for another

## *Testimony of George Walbridge Perkins*

kind of report and Ohio for another, and New York Life makes reports in eighty odd different ways to the different governments of the world. This is one of the most conflicting and impossible pieces of business that I know in any part of the world, and that is why when you take one report and use it against another it looks as if it is inaccurate, but the blanks of the different States call for different things and the officers have to largely use their discretion in finding the best way to make that report. I am very glad that that Connecticut report came up.

Q. Massachusetts it is and not Connecticut? A. Very good.

Q. As a matter of fact the blanks called in both cases for your profit on securities, that is the blank (handing paper.) A. I don't know as to that.

Q. When you filled it out or your company filled it out for the Massachusetts report you filled it out according to the facts, that is you gave the profits just as they were on the securities, and gave these amounts just as they were charged out on the other side of the account.

Q. Do you mean to say that these figures, representing the facts exactly as they were, were not called for by the State Department of this State? A. I don't know, I am not an expert on the blanks of the different insurance departments, but evidently that report you have there meets with our judgment as to the best way to do it.

Q. Yes. A. That may or may not have been the better way to do it. These are matters of judgment.

Q. We are interested to know, if the State Department asked you for any different or less explicit way of return than Massachusetts? A. I don't know, but the fact is it is between the two reports you can take your choice as to which was the better way.

Q. Of course, but the citizens of the State of New York take the report made to the State of New York and assume it is a complete statement. A. It says net profits.

*Testimony of George Walbridge Perkins*

Q. Yes, but it does not show what net means and what the actual profits were. A. The blank of New York State does not begin to show, there is no detail in the State of New York blank. It is all boiled down.

Q. Have you a duplicate of this report as it was actually made out? A. I don't know, but if you will send word to the secretary he would be the custodian of it.

Q. Are you sufficiently informed upon that to be able to state that the blank did not call for your profits on the sale of securities? A. I am not.

Q. Since you charged up these agents' balances against this particular item of income from proceeds on securities, what has been your practice with regard to advances made to agents, how do you treat them in your books? A. I believe Mr. Buckner is here and is to follow me——.

Q. You are not familiar? A. No, he is quite familiar with that, I am very sure. But I will say this, we do not any longer and have not from that time regarded agents' balances as an asset.

Q. I want to know further whether, according to your information in making reports to the New York State Department of Insurance you have ever taken losses from particular items of profit or income, merely showing the net income in your report, or the net increase in your report without disclosing the losses? A. I am not qualified to testify upon that.

Q. You don't know whether it has ever been done in any other case? A. No.

Q. Who would know as to that, who actually makes up the reports? A. I should think you can find out from the secretary or the comptroller or the actuary, the mathematicians who make up the data. I would suggest you make a requisition to the company and let the officer who has it bring it.

Q. We inquired the other day——. A. By the way, would you

*Testimony of George Walbridge Perkins*

like a memorandum I have on the question of those profits? I have a duplicate here.

Q. I think you stated all that is stated there on the record. A. I think you are right.

Q. Now, I call your attention the other day to a statement in your sales under date of December 31, 1904, of \$1,250,000 bonds of the New Orleans Railway Company to W. S. Fanshawe for \$937,500, and you explained to some extent the nature of the transaction. I want to ask you now, whether on December 31, 1904, W. S. Fanshawe & Company paid the New York Life Insurance Company \$937,500? A. Well, might I ask—I have a memorandum. I think it is in this memorandum.

Q. Well, you can answer that, I think. A. Well, I can answer—

Q. Did he pay the New York Life that amount of money? A. The New York Security & Trust Company paid the New York Life Insurance Company \$750,000 on account of the bonds that we had contracted to sell to Mr. Fanshawe. Now, I can give it from my memorandum now—

Q. Did the New York Security & Trust Company or anybody else pay the remaining \$187,500? A. Yes, that is all here, if I may read it as I have it.

Q. If you will state just how that was paid, and we will have that subject disposed of. A. The remaining \$250,000 of these bonds were taken by Nylic fund for agency directors, by the payment to the company of check of \$116,800, which was deposited on that date and the delivery to the company of \$70,000 of C. B. & Q. Joint 4's at 101, making \$70,700 and aggregating that difference that you referred to, and representing the proceeds of this \$250,000 of bonds.

Q. The entry you refer to of C. B. & Q. Joint 4's, \$70,000 at 101, purchased from Nylic, is the one on your list of purchases on December 31st? A. Yes.



*Testimony of George Walbridge Perkins*

Q. \$70,700? A. Yes.

Q. And the balance of \$116,000 was paid how? A. \$116,800 in cash.

Q. That was paid in cash? A. Yes.

Q. And went into what account? A. It was deposited in the First National Bank in the New York Life's account there.

Q. That is, \$1,250,000 of bonds were sold to Mr. Fanshawe, as I understand it? A. Yes.

Q. How did it happen in the first place that the New York Security & Trust Company paid \$750,000 of the purchase price? A. Well, that was money advanced as a loan in taking up the bonds. If you will let me read this memorandum you will get all these points.

Q. Just a minute. Do I understand that the New York Security & Trust Company made a loan to W. S. Fanshawe of \$750,000 and in making that loan paid for his account to the New York Life \$750,000? A. They paid to the New York Life \$750,000, with the bonds as security. What arrangement, if any, they had with him I don't know, but that was the transaction as far as we are concerned, we having contracted to sell him the bonds.

Q. He being the purchaser of the bonds, made some arrangement with the New York Security & Trust Company by which they loaned him \$750,000, which was paid to the New York Life against the purchase price? A. Well, deposited in our account No. 1, with the \$116,800, and the \$70,000, making the total.

Q. What arrangement did Fanshawe make with Nylic for the C. B. & Q. 4's, because that payment of \$70,700 made by Nylic to the New York Life Insurance Company in the form of C. B. & Q. joint 4's was made in part payment of that purchase price. A. This is another one of those cases where the New York Life was treated absolutely fairly, and I suppose the records may show this, but whether it appears anywhere else or not is a question of doubt in my mind. I agreed as the agent of Nylic to take \$250,-

*Testimony of George Walbridge Perkins*

ooo at the price we were selling them to Mr. Fanshawe at. I thought it was a good investment. When we got into January and I found the company could get considerable of profit on those bonds over and above 75 I turned back to the company the money and the cost of those bonds at 75, simply retaining for the Nylc 4 per cent. interest for the money for the time it was in that transaction, and not taking any of the profits.

Q. What was the date you turned back to the company the money that you got from Mr. Fanshawe, that is that the company got from Mr. Fanshawe in the shape of these bonds? A. You mean in January?

Q. Yes, what was the date. A. I have not that here, but I can have that sent to you. It was a time, I suppose, around—if you will let me read this memorandum you will get a lot of facts in the regular order, but still apparently you do not care for that.

Q. It must have been some time between December 31st, 1904, and January 5, 1905? A. It was the 5th or 10th, along there.

Q. It must have been along the 5th.

MR. MATTISON: It was the 5th. A. Mr. Mattison says it was the 5th.

Q. The 5th of January, 1905? A. Yes.

Q. Now, then, on January 5, 1905, the New York Life made a loan to W. S. Fanshawe? A. Have you that, Mr. Mattison? Yes, sir.

Q. Of what amount?

MR. MATTISON: \$937,500.

THE WITNESS: Mr. Mattison says that, \$937,500.

Q. Which was loaned to Mr. Fanshawe on January 5, 1905,

*Testimony of George Walbridge Perkins*

and that was on the security as you have already testified of \$1,250,000 of New Orleans Traction bonds? A. That is right.

Q. The same \$1,250,000 of New Orleans Traction bonds that you had sold to Mr. Fanshawe on the preceding December 31st?

A. I think it was prior to the 31st, but that is immaterial.

Q. Well, that is the date that you have given it? A. All right.

Q. Now, then, in order for Mr. Fanshawe to be able to put up the bonds with you as collateral for that loan he had to get a million dollars of those bonds back from the New York Security & Trust Co. and pay up the \$750,000 which had been temporarily loaned by that company? A. That would appear to be so.

Q. Yes. And he would have to get back from you or from Nylic and you as agent of Nylic——. A. Yes.

Q. The \$250,000 which you had taken? A. No, he did not have to get those back. That was a voluntary act on my part because I thought the New York Life could get a better price.

Q. I do not mean that he was under any compulsion, but I mean to say in order to get his complement of \$1,250,000?

A. He did not have to get them.

Q. But he did get them? A. Well——

Q. And he did get them and part of them were the \$250,000 you had taken for Nylic and then turned back to him? A. Yes, at the original cost. That was so the company could make the difference.

Q. When did you determine to turn those back to him, how long before the 5th of January? A. When I found that we could get an extra profit on these bonds in the selling of them over and above 95.

Q. You had already arranged on or before December 31st with Fanshawe that the New York Life was to get four-fifths of the profit on the resale? A. Yes, but it was a very nice question whether we could get more than 75 then.

*Testimony of George Walbridge Perkins*

Q. Yes, but that was the arrangement with Fanshawe then?

A. Yes.

Q. So far as the New York Life and Fanshawe were concerned the New York Life was entitled to four-fifths of the profits on the resale? A. Yes.

Q. What came to your attention between December 31, 1904, and January 5, 1905, which enabled you to judge that a higher price than 75 could be obtained for those bonds? A. Well, we were negotiating for those bonds in New Orleans and in Louisville and with different people, and it became apparent that we were going to get more than 75 for those bonds. We had that feeling, you understand, we had that intuitive feeling when we made the contract with Fanshawe.

Q. What difference was there in your feeling or information between that time and January 5th? A. Probably something that—probably something that came to my attention in connection with the sale of these bonds as they were going on in New Orleans and Louisville.

Q. You say probably. Do you know of any fact that did come to your knowledge? A. I know this, that when we took these bonds because I believed at 75 they were a good purchase, I found afterward we were going to be able to make considerable profit on those for the New York Life, and therefore I allowed the New York Life to make that profit, and did not allow the Nylic fund to make the profits. By the way, Mr. Mattison calls my attention to the fact that heretofore this arrangement with Fanshawe has been referred to as four-fifths. It was 95 per cent. The New York Life got 95 per cent, and 5 per cent went to Mr. Fanshawe. I would like to get that correct on the record, the New York Life received 95 per cent of the profits and Fanshawe 5 per cent for his work in the matter.

Q. Suppose there was a loss, suppose Mr. Fanshawe could not

*Testimony of George Walbridge Perkins*

have sold at as much as the purchase price, what then? A. That has been brought out before, that we protected him in the sale.

Q. So that he was not to be responsible? A. Not below 75, no, sir. That has been brought out before.

Q. So far as the original transaction was concerned without any of these arrangements you have testified to you were sure of the 95 per cent of the profits anyway? A. That is right, sir.

Q. Now, then, Mr. Fanshawe taking back from you as agent of Nylic \$250,000 of these bonds, what became of the C. B. & Q J's which had been made over to the New York Life in part payment of the purchase price on December 31, 1904? A. Well, you mean, in other words, how did the New York Life—how did the Nylic get its money back?

Q. Well, just what I say. I understand that as part payment of the \$937,500 the purchase price at 75 on December 31, 1904, the New York Life got certain C. B. & Q. J.s for \$70,700, or at 101 as you have testified from Nylic? A. Yes.

Q. Now, then, the consideration to Nylics for Nylics giving the New York Life that was the \$250,000 bonds of New Orleans Traction that Fanshawe turned over to Nylics? A. When can I interrupt?

Q. Well, that is right so far, is it not? A. No, sir, it is not.

Q. Well, explain it, then. A. You said this was part of the \$937,500. Of course, it was not a part of that, it was a separate \$250,000. Mr. Fanshawe has had his million of bonds and the \$250,000, making \$1,250,000.

Q. You have misstated it. I think you are led into an inadvertence. To get our premises correct, you will notice that the \$937,500 is the aggregate purchase price of the \$1,250,000 of bonds on December 31st, \$750,000 of which came from the New York Securities & Trust Company, \$116,800 came in cash, and \$70,700 came from Nylic in the form of C. B. & Q. joint bonds. A. Yes. Well, they were the same as cash.

*Testimony of George Walbridge Perkins*

Q. Those \$70,700 C. B. & Q. joint bonds being part of this \$937,500, and being received from Nylic when Nylic took over from Fanshawe later the \$250,000 of the bonds it was entitled to get those C. B. & Q. bonds back, was it not? A. We have not anything to do with them. In the first place Nylic did not take them from the Fanshawes, it was taking them over the other way.

Q. Well, Nylic took over the \$250,000? A. Yes, in December. In January Mr. Fanshawe took them over.

Q. What did they give Fanshawe for them? A. It was not that way, Nylic took the bonds over in December at 75.

Q. What did it take over at 75? A. \$250,000 of those bonds, for which it paid that amount in cash and that amount in C. B. & Q. bonds.

Q. Exactly, that is what I thought. Now, then, having given over the C. B. & Q. bonds when Mr. Fanshawe took back the \$250,000 and put them up as collateral with the New York Life, what became of the C. B. & Q. 4's that the New York Life had taken? A. I don't know.

Q. Perhaps I can inform you. It appears on January 9, 1905, from your statement of sales, the New York Life sold \$70,000 par value at 99 to Nylic of C. B. & Q. 4's? A. I should say that is correct.

Q. And those are the same C. B. & Q. joint 4's that they had taken on December 31st? A. Yes.

Q. And the New York Life took them at 101 and sold to them at 99? A. What is the point about that?

Q. I want to know if that is the fact? A. No, it is not the fact.

Q. Well, I want the facts. A. Will you kindly note that it is ex-coupon of 2 per cent.

Q. Explain it? A. Ex-coupon January 1st of 2 per cent., which was just the difference.

Q. So the transaction was that Nylic got back just what it had

*Testimony of George Walbridge Perkins*

put up? A. Yes, on the same basis, and not as it would appear on this statement of a profit of 2 per cent. to Nylic.

Q. And Fanshawe got back the bonds? A. Yes.

Q. And then Fanshawe put up the bonds as collateral for the loan for the \$937,500 for the loan with the New York Life? A. Which was quite correct.

Q. And all the time there was this arrangement between the New York Life and Fanshawe that he should be protected with this purchase and should give the New York Life 95 per cent. of of all the profits made on the re-sale? A. Yes.

Q. What was the reason for going through all that performance on December 31st? A. Because it was our simple judgment that that was the best business way to handle it.

Q. Why did you put it through on your books at that time? A. I suppose in all these transactions we might have done them one of three ways, and I suppose in some transactions we might not do it in a way that would be in your judgment or with the chairman's judgment or with some other man's judgment, but it met with our judgment.

Q. Perhaps you can tell me in a clear, brief way why it was you made the loan on January 5, 1905, of \$937,500 to Fanshawe on these bonds as collateral and did not make that loan on December 31, 1904, when the bonds were made over to Fanshawe? A. No, I cannot. That is the way we did the business, that is, the trust company made the loan and then we protected Fanshawe on the sale as already brought out.

Q. And, of course, the Fanshawe loan did not appear in your report of December 31, 1904? A. Naturally not. We had not any loan there.

Q. Now, is there any resolution—I think I have asked this before, but to make certain—is there any resolution of the Finance Committee authorizing that loan of \$937,500 on January 5th or

*Testimony of George Walbridge Perkins*

at any time? A. I have not looked for that, but I will send that to you, but wait a minute, if you please.

Q. Certainly. A. Let me say again that that would not be necessary, as it was a regular loan, as I have testified before on bonds, which the treasurer would have the right to make without authority of the Finance Committee.

Q. Was it made by the treasurer without consultation with anybody else? A. Now, I don't know. I am giving you the principles of our loans.

Q. Yes. Was that made by the treasurer without consultation? A. I don't know. I will have to look. It may possibly be reported in the record.

Q. What margins do you require on your collateral loans as a rule? A. As a rule, from 15 to 20 per cent., I think.

Q. What margin was there in this loan at the time it was made? A. I don't know, I will look it up.

Q. Did anybody inquire at the time? A. I don't know.

Q. Were you consulted with at all in regard to the making of it? A. I cannot say that I was consulted about this particular loan. I was in this whole transaction.

Q. Who was the man in the New York Life whom Fanshawe made this arrangement with? A. Either with me or Mr. Randolph.

Q. Anybody else? A. I don't think so. I don't see who else he would see. We were the executive officers.

Q. Who passed upon it, you or Mr. Randolph, as to whether the security was sufficient? and as to whether the loan should be made? A. My recollection is we did it together; it was a matter of joint judgment between Mr. Randolph and myself, that that was the satisfactory way to do it.

Q. He did not act in the matter under your instructions, but acted independently? A. I said we acted together.



*Testimony of George Walbridge Perkins*

Q. I mean with an independent judgment? A. He always does so.

Q. Is there a minute on your books arranging for this division of 95 per cent. of the profits on the resale to Fanshawe? A. I don't know. I do know, however, that we got the money. And I ask you in that connection—I believe you asked me how much we got the other day resulting from this 95 per cent. and 5 per cent. arrangement?

Q. Yes, I make the figures to be \$260,550.95.

Q. Is that on these bonds alone or on these bonds and the participation which you were carrying on temporary loan account of \$2,500,000 additional? A. On the entire transaction over and above the rate of 75.

Q. The whole amount involved was \$3,750,000? A. I cannot testify to those figures, but I should say if you have them that that is correct.

Q. What was the amount made on the resale of the \$1,250,000? A. I have not the figures segregated. You asked me for the total and that is the amount I have here.

Q. And that amount went to reduce the loss which had been charged to profit and loss at the end of December, 1904? A. Yes, sir. It went——.

Q. Making the net loss about \$326,000, I take it? A. Something about that, I think.

Q. Is there anything in that statement that you have that you have not testified to? A. I believe not.

Q. I asked you in regard to a loan to the New York Security & Trust Company of \$1,000,000. Are you able now to explain what that was? A. Yes, sir; I have this answer for that. This loan was for a million dollars at the rate of 5½ per cent., and on the following securities:

\$129,000 Kansas City, Fort Scott, & Memphis Ref. 4's.

\$100,000 L. & N. Southern Railway Monon 4's.

*Testimony of George Walbridge Perkins*

\$491,000 Erie, Pa. Coll. 4's.

\$145,000 B. & O. Southwestern 3½'s.

\$40,000 International & Great Northern 6's, 1919.

\$50,000 International & Great Northern 5's, 1909.

\$131,000 Tennessee Coal & Iron Gen. 5's.

\$40,000 Weatherford Mineral Wells & Nor. Western 5's, 1930.

\$100,000 Northwest Elevated 1st Ref. Conv. 4's.

\$91,000 St. Louis & San. Fran. Ref. 4's, making an aggregate of \$1,317,000.

Q. I find from your statement of collateral loans that that amount was loaned on November 23, 1903, and paid on November 24, 1903. Do you know what the occasion for that was?

A. No, sir; I do not. I suppose it was just a regular call loan.

Q. You don't know what the purpose was or anything about it? A. No, sir.

Q. Was any stock received in the Navigation Syndicate matter—has any stock been received? A. No; that syndicate is still in full force; with no distribution.

Q. Haven't you the certificates that I asked for? A. Mr. Mattison, did you get those?

MR. MATTISON: No.

THE WITNESS: Well, I will send that to you.

Q. You will send those things to me? A. Yes.

Q. I gave you a list the other day of \$132,000,000 of securities, stated to have been bought upon the market by J. P. Morgan & Company, now held by the New York Life Insurance Company, and I asked you whether it was an accurate statement. Are you prepared to testify as to that? A. You handed me a newspaper clipping when I was last on the stand which stated that the New York Life Insurance Company held \$132,000,000

*Testimony of George Walbridge Perkins*

plus of what would be called Morgan's securities. The clipping referred to 18 so-called Morgan schemes in which it was alleged that the New York Life had invested the above-named sum. It printed a table and the total of this table aggregated only \$57,000,000. Moreover, an inspection of the 18 issues shows that 5 of the 18 were securities with which the firm of Morgan & Company never had any connection whatsoever. In order, however, to give you what I think you want, namely, a correct idea as to what the New York Life total bond holdings represent in securities, which have been marketed from the house of Morgan & Company from time to time, I have had some figures prepared as follows: I find that on December 31, 1904, the New York Life owned a par value of \$90,874,700 of bonds, coming from issues at sometime or another brought out by Morgan & Company, or Drexel, Morgan & Company, and that the total of these particular issues amounted to over one thousand million dollars. In other words, out of a total issue of a thousand million dollars the New York Life holds ninety million dollars of such securities. The booked value of those \$90,874,700 on December 31, 1904, was \$90,507,905, the market value of these on September 5, 1905, was \$93,899,154, showing an enhancement in value of \$3,391,249. Of this total par value of a little over ninety million, \$38,000,000, as I have stated heretofore, since I became chairman of the Finance Committee, and \$52,000,000 were purchased and held by the New York Life prior to my chairmanship. They represent not eighty-four different issues, as the newspaper clipping claims, but forty-two issues.

I am obliged, therefore, to say that the newspaper clipping regarding which you questioned me is in error in nearly every particular. It is wrong to the extent of forty-two millions in the money it claims the New York Life has invested in Morgan securities, it is overstated to the extent of 100 per cent. in the number of so-called Morgan issues, which the New York Life holds, it is

*Testimony of George Walbridge Perkins*

wrong in including securities which have never been issued by Morgan & Company at all, it is wrong in including in its list of 18 securities 5 securities amounting to \$5,000,000 which were never issued by any Morgan house. In fact, it is wrong in so many particulars that I am within the facts when I state that the article is entirely misleading.

Q. You stated the other day in the list that you furnished that during the time that you had been chairman of the Finance Committee, or since the time that you became a member of J. P. Morgan & Company, the New York Life had purchased from J. P. Morgan & Company securities of the par value of \$39,286,075 at a cost to the New York Life of \$38,804,918.51. You also presented a statement that you had covered over to the New York Life Insurance Company \$10,490.67 as your share of the profits made by J. P. Morgan & Company on those transactions. I would like to have you explain how it is that your interest in the profits of J. P. Morgan & Company on \$38,804,918.51 of transactions would be only \$10,490.67. A. Yes, sir. Well, there are several reasons for that. The first one is that these securities are all of a high grade in which the commission or profit to the bankers would be very small. In the next place I have been representing the policyholders of the New York Life Insurance Company all this time on a salary to negotiate for securities, and buy them as cheaply as I could, and I was in a better position to buy them cheaply from Morgan & Company, perhaps, than most anybody else, although I think I have always bought them very close, if I may so, because of knowing what those securities cost Morgan & Company, and I bought them as closely as I could always in any of those securities; and in the next place I am not the senior member of the firm of J. P. Morgan & Company, and my interest is not as large a one, if I have got to speak of that, as some people may suppose. But, Mr. Hughes, that statement, as I am sure you will know, I voluntarily made that arrangement with the com-

*Testimony of George Walbridge Perkins*

pany two years ago, and made up the account at that time and settled it on what was, of course, an absolutely correct basis. The amount may seem small, but is correct, and arises from the facts as I have stated them.

Q. You stated in this account that of the amount paid to the New York Life Insurance Company, \$9,730 was paid by virtue of an account rendered? A. Yes, sir.

Q. And I think you said that you had made various disbursements for the company? A. I had, sir.

Q. For which you recouped yourself in this way? A. Yes, sir.

Q. Now, what was the character of those disbursements? A. They were moneys that I had paid in London in connection with some advertising matters over there through a channel that we thought would be helpful in—not specially for the New York Life alone, but for American life insurance, in an agency there that looked after American insurance items, and growing out of an arrangement I made when in London a year or two before that, and an account of which I kept of the payments I had made and which I turned over to the company at that time, and which arrangement has been continued, but since that time the company has made the payment itself.

Q. Were those payments extending over a considerable period prior to December 30, 1903? A. Yes, sir. As I recollect now, about two years.

Q. Had you made requisitions on the company prior to this time for reimbursement of these amounts? A. I had not, because it was done in my name, as we wished it to be a confidential arrangement there.

Q. So when you came to settle with the New York Life or turn over to the New York Life the share of the profits on the business done with Morgan & Co. you find \$9,730 owing to you from the New York Life? A. And the accounts for that and the vouchers

*Testimony of George Walbridge Perkins*

and correspondence everything pertaining to that were turned over to the company and we now have it.

Q. Then you made your check to the company for \$760.07 in addition? A. That is right, sir.

Q. Now, that was down to December 30, 1903? A. Yes, sir.

Q. Since that time, according to your statement, the New York Life has purchased from Morgan & Co. about \$4,500,000 of securities in par value, paying therefor nearly the same amount, or practically the same amount? A. Yes, sir.

Q. Have you covered over your interest on the profits in those transactions? A. I have, sir.

Q. Is that in this check of \$78.10? A. That is right, sir.

Q. Under date of July 19, 1905? A. That is right, sir.

Q. And that covers your entire interest in those transactions? A. Well, yes, sir. There are one or two items outstanding yet that are not settled, but they amount to scarcely anything.

Q. You were stated the other day to be the trustee or one of the trustees of a fund known as a Nylic fund for the benefit of agency directors. I think we already have upon the record the amounts paid to you as trustee for the benefit of the agency directors. As I understand it none of that amount has been refunded? A. No, sir.

Q. According to the arrangement with the company none of it can be refunded? A. Except under the terms of the Nylic agreement at certain periods.

Q. I mean to the company. It never comes back to the company? A. It never comes back to the company, no, sir.

Q. From the company's standpoint the payments made to you as trustee for Nylic for agency directors are disbursements? A. Yes, sir, and have so been charged up.

Q. They constitute expenses in connection with the agency business, for getting business? A. That is right.

Q. And are so treated, are they not? A. They are; yes, sir.

*Testimony of George Walbridge Perkins*

Q. Well, are they so treated in your reports, or are they treated as a commutation of renewal commissions? A. Well, I think they go to first year's bonuses, do they not. A. Yes.

Q. At first I couldn't think what had appeared on that. A. I wonder what you think of half as many terms as you do, sir.

Q. The fact, I think, sufficiently appears? A. Yes, sir.

Q. That is, you have disbursed this amount of money on account of getting business? A. The New York Life has.

Q. Now, what accounting do you make as trustee of Nylic? A. Well, this agency directors' Nylic was organized by some of us in the New York Life to accomplish the purpose of holding these 220 agency directors in the company's service so that they would not be inclined to go to other companies or to other lines of business. We had tried various ways to accomplish this, and we finally adopted this method to accomplish two purposes, first, to hold these men firmly in the company's service, and second, to so interest them in some plan of investing their money that they would not give any thought to any surplus earnings they might have to invest each year, but would pass that over into a common fund to be invested for them, so in that way we would get their undivided time in the interest of New York Life policyholders. Now, we did that by getting them together and saying that if they would deposit with trustees whom they might select a certain percentage of their salaries each year, and any extra amounts they earned at the close of a year because of having reduced the expenses of their agency, because of engaging new agents and getting extra amounts of new business, that if they would put all these into a common fund that the company would add to that fund 25 per cent of their salary deposited at the end of each year.

Q. You will remember that we have had all of these put on the record. A. Yes. I am almost done with that, Mr. Hughes. Then we would put these funds together and invest them through a

*Testimony of George Walbridge Perkins*

common channel. In the year 1902 these gentlemen, the agency directors of the company deposited with the trustees \$186,000 plus. In 1903 \$253,000 plus; in 1904 \$274,000 plus and in 1905 up to date, \$230,000 plus, so that there has been paid over to the trustees \$945,146.02. Now, the trustees at the beginning were the senior vice-president, Dr. Tuck, since deceased, Mr. Weeks, the company's actuary and myself. Since the death of Dr. Tuck, Mr. Kingsley has taken his place as a trustee, but as a matter of fact this money has all been handed over to me and I have invested it as my judgment dictated, and at the close of each year, the end of January of each year, just before the meeting of these agency directors which is held annually I have exhibited to my co-trustees a list of the securities in which this money was invested, and then we have joined in a memorandum to the agency directors telling them the amount of profit or loss arising from their funds in hand. Bringing that down to date I now have on behalf of these gentlemen, as I have said, \$945,146.02 and the cash value of the securities which I hold, and all marketable securities, Stock Exchange securities, was on yesterday \$1,194,765.39, showing a profit to them of \$249,619.37 in three years and a half.

Q. Now, all that that you are doing, is for the benefit of these gentlemen who are agency directors? A. Yes, sir.

Q. The company has nothing to do with that? A. Not a thing.

Q. You are the trustee of that fund, and from the company's standpoint the agency directors or their trustees get the money? A. That is right, sir.

Q. You are representing them as trustee? Now, what I want to get at is how much money has the company put into that total?

A. Well, it has all been put in; all of that \$24,000, into it.

Q. Well, how much has it put in all told? A. It has put in \$76,699.86.

Q. Of the \$900,000? A. Yes, sir, of the \$945,146.02.



*Testimony of George Walbridge Perkins*

Q. Are you quite positive of that, sir? A. Yes, sir; I have the figures here.

Q. That is wrong, I think. A. Well, perhaps I didn't get it.

Q. What I want to get at is this, what amounts have been paid over by the company to the trustees of Nylic for agency directors? A. The men themselves have paid to the company as cash deposits regularly from their monthly salaries, that is, their own money, you know——

Q. I understand that, but what does the company pay? A. I am telling you where this money all comes from. From their salaries they have paid from month to month regularly \$306,799.61. The bonuses they have earned by way of having reduced the cost of business increased, the number of agents, and increased the volume of business, and which they have paid over to this fund, being their own money earned is \$524,259.52, and the amount of money paid over by the company as 25 per cent. of their salary deposits heretofore referred to is \$76,699.86. That is correct, isn't it?

Q. Now, the \$300,000 is part of the salaries which they paid over, isn't it? A. Yes, sir.

Q. And the \$520,000 is bonuses given by the New York Life? A. No, sir, I beg your pardon. This is just as much a part of their salary, and a much more important part to the policyholder than a salary, because a man might not have earned the salary, but he had to earn this by reducing the cost of business, increasing his agents or increasing his business.

Q. Whether he earned it or not? A. He did earn it.

Q. Whether he earned it or not the New York Life Insurance Company had contracts to pay these agents certain salaries? A. And these bonuses.

Q. They had contracts to pay certain salaries—— A. And bonuses.

*Testimony of George Walbridge Perkins*

Q. Won't you follow the question, please, Mr. Perkins. A. But, Mr. Hughes, don't get away from that.

Q. I am not trying to get away from it. I want to get it out clearly. A. Let me illustrate it.

Q. If you will be good enough to answer a few questions, we will get along very quickly. You have a contract with your agents to pay them certain salaries. You want to add certain bonuses. Well and good. But you have a contract to pay salaries? A. Mr. Hughes, that isn't right. That is all I can say about that.

Q. We have the contract in evidence, so it is unnecessary to take time with respect to it. But the fact of the matter is that 25 per cent. of certain salaries are paid over by the agency directors to the Nylic fund. That is right, isn't it? A. That is right, sir.

Q. And the equivalent amount is paid over by the company to the Nylic fund? A. No, sir; that is not right.

Q. It would be right if I said that 25 per cent. of that amount is paid over. Is that right? A. That is right; yes, sir.

Q. Now, the amount paid over by the company to the Nylic fund on account of bonuses which, as you say, otherwise the agents would have received themselves, is some \$524,000? A. Yes, sir.

Q. And that \$524,000 are amounts paid under the agents' contract in addition to what are termed salaries as bonuses? A. As extra compensation.

Q. As extra compensation? A. For accomplishing certain results, and they don't get them unless they accomplish those results.

Q. It has been made very clear, because we have the contract in evidence? A. Very good.

Q. Are all these amounts of bonuses paid under the contract, or are some of them subject to prizes and offerings made from

*Testimony of George Walbridge Perkins*

time to time to increase the efforts of the agents? A. Yes, and all that sort of thing.

Q. How much is that sort of thing? A. Mr. Buckner can get a statement.

Q. You haven't got that? A. No, sir. The whole thing amounted to \$428,000. But what I want to make clear is the term "bonus" is in a way unfortunate. It is a reward——

Q. Well, it means something good? A. No, sir. No, I beg your pardon.

Q. It means something good? A. Now there is where you are wrong. I am not going to let the record stand that way.

Q. I was merely translating it from the Latin. A. You are translating it wrong.

Q. Well, then, you translate it. A. You are a lawyer, and a man says I want to retain you for \$25,000 in a lawsuit and when we get this lawsuit done and won I will settle with you. That is the way we do this. We say to the agency directors, we will pay you a salary of \$2,500 a year, and if you get certain business at a certain cost and have so many agents at the end of the year and so much business and don't lose money in advances and all these other things, we will give you so much money at the end of the year. And now we have, according to our vernacular, called that a bonus. It is no more a bonus—a bonus in the ordinary sense of the word is thought to be a gift, something a man gets for nothing. I don't want that on the record in that way. These men earn this much more completely than they do their salary, and as a matter of fact these bonuses, as you term them, are a way of insuring to the policyholders the fact that the man will earn a salary.

Q. Your emphasis about that is probably due to the fact that you were not here when these contracts were put in evidence. A. Probably not.

Q. You can correct that vernacular to suit yourself. We were

*Testimony of George Walbridge Perkins*

only using terms found in your report. A. You say it was something good.

Q. I was merely translating the Latin word bonus. A. I am glad you did, because it doesn't properly translate into this.

Q. You had better change the term and get something that will be accurate. A. Will the secretary please make a note of that and we will change the term. There is something good will come out of this investigation, I am satisfied.

Q. A bonus? A. I hope so, especially to these stenographers.

Q. Now, the thing I was aiming at was not at all a characterization of it. A. You understand what I was getting at.

Q. That is not what we sought for, that is fully on the record, but just how those payments were made up and what went over to the Nylic fund for agency directors? A. That is what I tried to tell you.

Q. I think we understand it that some \$300,000 is made up of salary contributions and \$76,000 made up of 25 per cent. of salary contracts given by the company under its contract in the Nylic fund, and \$524,000 is made up of what these men would otherwise have received under their contracts under what has been called bonuses, whether rightly or wrongly, and also by way of special prizes and special premiums for special effort. That is right, isn't it? A. That is right.

Q. And you have the whole \$900,000 in your possession invested, as you have stated? A. Yes, sir.

Q. And how many men are interested in that? A. 220 some odd, men, I believe, are there not, Mr. Buckner, about 220?

Q. All told? A. Yes, sir. Now that is all, I think, Mr. Hughes, in the way of memorandums.

Q. Do you want to go now? A. At your pleasure. I would like to if it is convenient to you.

Q. I have a few more questions, but they can wait until some other time. A. Very well, if it is your convenience.

*Testimony of Thomas A. Buckner*

MR. HUGHES: Mr. Buckner, will you take the stand?

THOMAS A. BUCKNER, recalled, testified as follows:

THE WITNESS: Mr. Hughes, before you start in on your questions, I would like to make some corrections in my testimony of the other day. On September 21st, with references to the amount of bonuses paid to agency directors for securing new men, that is to say, the \$2.00 per thousand on the first twelve months work of new men secured, you have yet to make an estimate which I first did at balance \$100,000 and later erroneously made a correction. The \$100,000 estimate was about right. We do not keep that item separate, but this, I think, somewhere near correct.

You asked me, with reference to the item appearing in our schedule, which I gave you of \$195,164.44 charged at Home Office Agency expenses in 1903, and a similar item of \$183,362.01 charged in the same way for 1904. I told you that my salary and that of Mr. E. R. Perkins was in that account, but that I did not know what that account was. I find that upon an inquiry of the controller that these items were composed of the salaries for all of the clerical force on the Agency Department, and the Home Office premium division, which corresponded to the Cashier's Division, outside of the Home Office, which, the salaries, of the examiners, of agents, accounts and the salaries of inspectors, examiners of branch office accounts. They have been charged that way since 1895. I think evidently for the purpose of having that charge in our own estimation go against the new business.

You asked me as to the average salary paid to agency directors. I made an estimate, I think, of \$3,000. That was only an estimate. I find upon investigation that the present time we have 192 agency directors in the United States and Canada, their av-

*Testimony of Thomas A. Buckner*

average salary is \$2,544.43. That is, at the present rate. The contract bonuses paid to these agencies in 1904 was \$140,670.88, including that \$2 per thousand bonus, to which I have just referred. That means an average bonus of \$732.67. I am using the word bonus in the sense Mr. Perkins just explained, not in the sense of the Latin word. Making an average compensation to agency directors on the basis of the earnings to these contract bonuses of 1904 and their present salaries \$3,277.10. It does not include the Nylic for agency directors.

You asked me several questions to which I assented, which question implied, as I re-read the testimony that Nylic for agents—I don't mean now Nylic for agency directors—was in a sense a payment for past services. That was particularly brought out with reference to old men in the employ of the company prior to January 1, 1896, when we introduced Nylic. In assenting to that I was in error. The monthly payments to Freshmen, first, second and third degree Nylics, whether to new men or to old men employed prior to January 1, 1896, is compensation for services rendered during the time when the monthly payments are made, and is in no sense payment for previous services, although we have adopted as a rule for ascertaining what monthly payments we will make, as the basis for calculating that, the length of service, the experience of the men, amount of business that they have previously written.

With reference to the old men we did not think that it was necessary to require of them the five years apprenticeship that was required of new men in order to entitle them to begin to draw payments from Nylic, and they were advanced in Nylic as for time service for one-half of their time in the service prior to January 1, 1896.

Q. And they were paid upon the basis of the business which they had obtained previously? A. The business which they had obtained previously as well as their experience with the company

*Testimony of Thomas A. Buckner*

was used as a measure for ascertaining what they should be paid for future services, through Nylic.

Q. The distinction you make is that, instead of paying them for the work they had previously done, you paid them for the work they are now doing, using the work they have previously done as a basis for computing the compensation? A. As a measure—yes, sir; that is correct.

Q. I find——. A. Just one more point, Mr. Hughes. You asked me a question as to whether any books were kept for Nylic for agency directors. I find that the trustees do keep books, and I think that is under the charge—in fact it is since I have investigated—that it is under the charge of Mr. Weeks and done by some one under his direction. Thank you for your kindness.

Q. I find in your report to the State Insurance Department of New York under date of December 31, 1904, the following item: "Commuting renewal commissions \$727,282.50." A. Yes, sir. You asked me to bring——

Q. As a matter of fact was that amount paid during the year for commuting renewal commissions? A. I have a statement of that, Mr. Hughes. You have one of our receipts and disbursements sheets?

Q. Yes, sir. A. That is segregated on the receipts and disbursements sheets which I handed you.

Q. The question that I asked you was that amount of \$727,282.50 paid for commuting renewal commission in 1904? A. That amount included an amount of advance commissions, Mr. Hughes.

Q. Well, it wasn't paid for at that——. A. Advances on commissions \$605,444.90, which we treated as commuting commissions.

Q. I know you treat it that way, but as a matter of fact what is commuting a renewal commission? A. I should say that it was either a payment in full for future renewal commissions, promised under contracts, or it was a payment in part.

*Testimony of Thomas A. Buckner*

Q. When you commute renewal commissions you buy a man's right to his renewal under his contract for a certain sum of money, do you not? A. I believe that is the general way, but I don't think that is necessarily so. You might commute some of the commissions without commuting all, or without buying him out in full.

Q. I asked you for a statement or asked your company the other day for a statement of your renewal commissions commuted for 1904, and you hand me this statement which shows renewal commissions commuted for 1904 \$121,187.67? A. Yes, you asked me for that, and I have it here.

Q. You produce that statement. That was the amount for actual commutation during that year? A. Outside of advances, yes.

Q. Now, what are those advances? A. These advances are payments made to agents on account of their future earnings.

Q. They are loans, aren't they? A. I should say they are somewhat of that nature.

Q. In other words they are a loan to the agent on the security of his renewal commissions? A. Not altogether. They are advances made to agents on the security of their entire equities with the company. Sometimes——

Q. And also on their personal responsibility? A. On their personal responsibility.

Q. In other words, if the agent gets a loan——. A. And on the work they are supposed to do.

Q. If an agent gets a loan from your company he is free to pay the loan, isn't he? A. Oh, yes.

Q. And if he repays——. A. But we don't always consider an advance a loan, Mr. Hughes.

Q. Taking these amounts that you call advances, they are amounts that you pay to the agents, are they not? A. They are payments made to the agents, yes, sir.



*Testimony of Thomas A. Buckner*

Q. And the agent is at liberty to pay them, isn't he? A. Yes, sir.

Q. And if he does pay them he retains his right under his contract to whatever renewal commissions he may be entitled to? A. And the first year's commissions also.

Q. Well, anything? A. Yes, sir, whatever he is entitled to.

Q. In other words, if he pays his advance he has his complete rights? A. Yes, sir.

Q. In the meantime, whatever rights he has from the company which you call his equities, also whatever renewals he is entitled to he pledges to the company for the repayment of the advance?

A. Yes, with the business already on the books, as well as business he puts on the books in the future.

Q. When you commute a renewal commission the agent is no longer entitled to a renewal commission, but gets a lump sum in payment for whatever may be coming from him to the company? A. That is necessarily true. If we bought him out in entirety, yes, but if we commuted some of the renewal commissions that would not be true.

Q. When I asked you for a statement of renewal commissions commuted for 1901, \$121,187.67, was that a true statement? A. I think so.

Q. And that was all that you had commuted for that year? A. That was outright.

Q. Outright? A. Yes, sir.

Q. And the rest were advances to agents? A. The rest are advances on future earnings, past earnings and work that they are expected to do.

Q. And advances which can be repaid? A. Which can be repaid.

BY THE CHAIRMAN:

Q. Mr. Buckner, are advances ever made on expected future

*Testimony of Thomas A. Buckner*

business irrespective of contractual rights of renewals? A. Yes, sir, Mr. Chairman, we find that is necessary in order to carry an agent until he can make a living out of commissions. It is charged up to his future earnings. We take many agents who haven't got any capital, on hand, who have families to support, and instead of giving them, as we would have a right to do, of course, a salary outright, we put them on a commission basis and then make them advances to carry them for a month, two months or three, until they are on a running basis on commissions.

Q. Purely on expected new business? A. Yes, sir. We charge it off as an expense.

BY MR. HUGHES:

Q. Now, when you make your reports to the State Insurance Department you don't show what advances you have made to agents under the term advances or under the term losses? A. It doesn't occur in the report, I think, Mr. Hughes. However, we do not.

Q. It occurs in the report under the head of commuting renewal commissions? A. I am not certain whether the company placed it there or whether the Commissioner of Insurance placed it there. I heard you state this morning some things as true, which I think you are in error about. The Insurance Commissioner does not always put in his report items we give him; not always.

Q. If there is any erroneous statement on my part I would be glad to have it corrected. In the meantime you can devote your attention to this that we have before you and see if there is anything erroneous there. \$727,282.50 of commuted renewal commissions. Now, that includes all advances to agents, does it?

*Testimony of Thomas A. Buckner*

A. If you will allow me to correct you, it says commuting renewal commissions, not commuted.

Q. The "ing" is supposed to cover advances? A. It is supposed to cover future, I think, as well as past.

Q. Whatever these advances are in that item and anywhere else in the reports? A. I think so, I so understand it.

Q. But since 1901 when you took the entire amount of agents' balances and charged them against the profits made on the sales of securities showing the net profits in the report you have carried the advances to agents under the head of commuting renewal commissions in your report? A. I understand that to be so, although I have no connection with that part of the work, making the report. I don't believe that every year since that time, Mr. Hughes—if you will allow me to correct that, I think your question included every year since 1901. I think 1902 they were carried off to profit and loss. I think so; I am not certain about that.

Q. Well, I would be glad to have that stated. A. But since—any how in the years 1903 and 1904 and up to date in the present year that is the method of treating that item.

Q. Now, I want to see just how these advances are made. In the first place, do you ever pay agents anything to get them from another company? A. Not for that purpose. Sometimes we make advances to agents.

Q. Who come over from another company? A. Who come over from another company. Not very often, though.

Q. You make these advances contemporaneously with their coming over from the other company? A. Sometimes it has been done. It is not our present policy, however.

Q. Do you recall any case in which it has been done on any considerable scale? A. Yes, sir. You subpoenaed a copy—me to bring the contracts made in Buffalo about the Fall of 1901.

Q. Now, what took place in Buffalo in the Fall of 1901 with

*Testimony of Thomas A. Buckner*

regard to the transfer of agents from one company to another?

A. Well, I don't think I would like to characterize it in that way. All I know about the matter is this, that in the Fall of 1901 we employed a great many agents in Buffalo, and in the winter of 1902 as well. These men had been with another company.

Q. What company? A. The Equitable.

Q. How many men did you employ at that time who had previously been with the Equitable? A. I don't know the number.

Q. Well, approximate it? A. I should say something like thirty, maybe, or forty.

Q. Did you employ practically all the men who had been previously employed at Buffalo by the Equitable? A. I don't think so; I am not sure; I don't know about that.

Q. What proportion of them? A. That I don't know.

Q. Was there a time when the Equitable took from the New York Life a large number of the agents employed in New York? A. Yes, sir.

Q. When was that? A. I think that was in the beginning of 1900, if I remember correctly.

Q. How many men who had been employed by the New York Life were then employed by the Equitable? A. I don't know.

Q. Well, approximately? A. I should say approximately something between 100 and 200; maybe more; I don't recall.

Q. Was it your understanding that the Equitable paid any money—— A. The papers at the time had about 400, but that was the usual over statement of the papers.

Q. Kind of a bonus statement? A. Something thrown in.

Q. Was it your idea that the Equitable spent some money to effect that transfer? A. That I don't know.

Q. You never heard anything of that sort? A. No, sir; I do not know. They paid them certain compensation, and may have

*Testimony of Thomas A. Buckner*

made them advances for aught I know. I won't say I never heard that was so. That was rumored; I don't know that was so.

Q. Now, when you came, that is, the New York Life came to employ agents in Buffalo who had been previously employed by the New York Life, did they have to spend any money? A. By the Equitable.

Q. I meant by the Equitable, did the New York Life have to spend any money? A. We didn't spend any money, no, sir. We made them contracts.

Q. Well, did you pay any money? A. Oh, yes, we made them contracts and we made them advances.

Q. And liberal advances? A. Well, that is a term that is subject to a matter of opinion, as to whether it was liberal or whether it wasn't.

Q. Now, suppose you produce for me a contract made with Mr. Desbecker, of Buffalo, at or about that time?

(Witness produces papers.)

A. There are two contracts, Mr. Hughes.

Q. You produce a contract under date of November 19, 1901, with David H. Desbecker, of Buffalo. This was on a form——

A. That is the last contract, Mr. Hughes, that you have first there. There are two there.

Q. The first contract is under date of November 11, 1901, which is on a form of contract—— A. And it was supplanted by the second so that the first was supplanted entirely from original date by the second.

Q. That is the second that you refer to as the one of November, 19, 1901? A. They both took effect on that date.

Q. Now, that being on your regular form there was a confidential memorandum of supplementary returns? A. All contracts are marked confidential.

Q. Yes, but this is a memorandum of supplemental returns? A. Yes. That is a part of the agreement; yes, sir.

*Testimony of Thomas A. Buckner*

MR. HUGHES: I will offer it in evidence.

(Marked Exhibit 208 and read by Mr. Hughes.)

Q. Now, Mr. Desbecker had formerly been employed by the Equitable? A. I think he had.

Q. You started out by providing for what are termed bonuses proportioned according to the amount of the business and to aggregate in a total of \$4,000? A. Yes, sir.

Q. These being payments in addition to those called for by the form of printed contract under the same date? A. Yes, sir.

Q. Then you proceed to say that \$3,500 of this \$4,000 shall be paid to Mr. Desbecker irrespective of what amount of insurance he writes. A. That was guaranteed to him.

Q. Now, was that the way in which arrangements were made with the other agents who came over? A. Perhaps some others, but not all.

Q. A number made in that way? A. I think only two or three.

Q. Have you a statement of the ledger balances of the Buffalo branch office for the month of December, 1903? A. I have, sir (producing paper). I think that is it.

MR. HUGHES: Mark it for identification.

(Marked Exhibit 209 for identification.)

Q. Now, from this it appears that in the year 1902 there were advanced to agents at the Buffalo branch office a total of \$48,063.56? A. That is correct.

Q. What are these blue checks that appear opposite the items? A. That I don't know. Some of the clerks checking them up, I suppose.

*Testimony of Thomas A. Buckner*

Q. Are those the items that have been charged up to profit and loss? A. Not that I know of, sir. That is, I don't know whether they were charged to profit and loss or not.

Q. Have you anything which will enable you to tell what amounts of these advances to agents have been charged to profit and loss? A. For 1902?

Q. Yes. A. I think all advances, Mr. Hughes, of the whole company for the year 1902 were charged to profit and loss, that is, we discontinued carrying them as an asset in 1901.

Q. Are you quite sure that all of them have been? A. I think so. I am not sure; I don't know; but I think that all advances made during the year 1902 were charged to profit and loss at the close of the year. That is, all made and not repaid at the end of the year—by the end of the year.

Q. Well, then, can you state what amount of these which were made were not repaid by the end of the year? A. I cannot. That \$48,000 is balance.

Q. Which was not repaid? A. That is, at the end of 1902 that was the balance.

Q. And that which was not repaid you think that was all charged to profit and loss? A. I think so.

Q. Look at this item, for example, of M. D. Cohen, was that charged to profit and loss? A. Well, that I don't know, Mr. Hughes, except in a general way. I am under the impression that all advances of the company, not only Buffalo branch, but all branches remaining unpaid on December 31, 1902, were carried off to profit and loss.

Q. You treat it as a dead loss? A. We ceased treating it as an asset. We don't consider it a dead loss; no, sir.

Q. Well, when you get any money in on these advances what do you do, credit it to profit and loss? A. No, sir; they are credited to advance account.

Q. If you charge it out how do you bring it in? A. Our sys-

*Testimony of Thomas A. Buckner*

tem now, and since 1902, I think, has been to charge to an advance account the current advance made and to credit to that account advances that the company has recouped from former advances.

Q. That is since 1902? A. I think so.

Q. Before 1902 you charged them to profit and loss? A. Before 1902 they were carried as an asset and at the close of the year carried out to profit and loss.

Q. And if you got anything out of it you credited to profit and loss? A. I think not, but I don't know anything about the profit and loss account, so I am not competent to testify to it.

Q. The same statement for 1904 shows agents' balances for 1903, that is, advances to agents for 1903? A. Yes, sir.

Q. And they amount to \$24,426.02? A. That is correct, according to this statement.

Q. Making a total of \$81,920.12? A. Total outstanding at that time.

Q. And does the statement also show the amounts that had been received by way of credits? A. No, sir, these are the net items; these are the net balances.

Q. What are the credits shown there? A. Those are agents that have no debit accounts at all. As a rule those are incidental items, rather accidental, because agents who have no debit balances draw their commissions in cash as a rule.

Q. Do I understand that the advances made to agents of the Buffalo branch for 1902 exceeded by \$48,000 all that the agents were entitled to for that year? A. I would not say all that they were entitled to, all that they had earned in actual commissions accrued.

Q. Up to that time? A. Yes, sir.

Q. Including first year and renewal commissions up to that time? A. Including all commissions accrued up to that time for those particular agents.



*Testimony of Thomas A. Buckner*

Q. And the same is true in 1903? A. The same is true in 1903 as to the agents listed here.

Q. Now, can you explain why it was that you had to advance \$48,000 to these agents in addition to the amounts paid them under their contracts in the year 1902? A. I can only explain in a general way. Of course, the man who made the advances would be the one to explain why he did it.

Q. Who was that? A. That was the agency director of the branch office.

Q. Who was he? A. At that time he was Dr. Pierman, I think—no, not in 1902—Mr. Aird.

Q. Why did you mention Dr. Pierman? A. He was there in 1901.

Q. He went there to attend to the matter of getting the agents? A. He was the agency director of the Buffalo branch in 1901.

Q. He was sent there by the company to procure the agents? A. No, sir.

Q. Who sent him to Buffalo? A. He was the agency director of the Buffalo branch when he employed the agents.

Q. When did he become such agency director of the Buffalo branch? A. I don't know the exact date but sometime prior.

Q. How long prior? A. I couldn't say.

Q. Very long? A. A year, anyway.

Q. This Mr. Aird succeeded him? A. Then Mr. Aird succeeded him.

Q. And under Mr. Aird's management these large advances of \$48,000 were made? A. I think some of those advances, perhaps, were made pursuant to agreements made prior to Mr. Aird's administration.

Q. What were those agreements? A. Those were agreements similar to Mr. Desbecker's that you just read.

Q. Now, this amount of \$3,500 that Mr. Desbecker was to get anyway, irrespective of what amount he wrote, as an additional

*Testimony of Thomas A. Buckner*

payment over and above his contract payments, was not charged as an advance. A. I think it was; yes, sir.

Q. That was something that Mr. Desbecker was entitled to. A. It was guaranteed to him, but I think it was carried as an advance at first.

Q. You will remember that the contract says that \$1,500 was to be advanced to him in addition to the \$3,500 and charged as an advance? A. Yes, sir.

Q. But you think the \$3,500 was also charged as an advance? A. I think so.

Q. Now, will you look at 1902, in your statement under Desbecker and see? A. Oh, that was 1901, that Desbecker advance.

Q. Then it was not a part of the \$48,000 at all? A. No, sir. A balance may be—.

Q. Then is this \$48,000 explained in that way? A. A balance may be a part of it.

Q. There is nothing on your account? A. Yes, \$833.27.

Q. That isn't old account? A. 1902.

Q. That is advanced in 1902? A. Yes, sir.

Q. Now, \$2,000 were advanced to Mr. Desbecker, in October, 1901? A. Yes, sir.

Q. That was not charged as an advance. A. I think it was.

Q. Then why wasn't it charged under old account in your statement. A. I think it was carried by the contract as a guaranteed arrangement under the expenditure of 1901.

Q. So it didn't appear later? A. It didn't appear later.

Q. Then do I understand that these large advances made to the Buffalo agent were made as a part of the arrangement made with them to enter into the service of the company? A. Yes, some of them.

Q. And that accounts for the very large amounts expended in that way. A. That and the fact that the agency director was not very careful on the advance question.

*Testimony of Thomas A. Buckner*

Q. You recognize that frankly, Mr. Buckner, as an extravagant statement for 1902 for that Buffalo branch office? A. I recognize that as being not a very good showing.

Q. And it was reduced the next year one-half. A. I want to say, Mr. Hughes—yes, next year one-half and the next year half again.

Q. And we may treat the initial expense without doing injustice as incurred in connection with the employment of these agents? A. Partly so.

Q. Now, since that time you have a sort of an arrangement with some of the other companies that men that leave your company are not to be employed by them without your consent, have you not? A. I have no arrangement, no agreement. I have personally an understanding with some of the other gentlemen that we will not take one another's agents——

Q. A sort of a gentlemen's agreement? A. Absolutely.

Q. To what companies does that apply? A. To the Equitable, the Mutual and the Prudential.

Q. And the Metropolitan? A. We have a different kind of an understanding with them.

Q. What is that? A. It is similar in its nature.

Q. So that if a man is discharged from the Equitable and tries to get employment from the New York Life you would feel that in honor you could not employ him without asking the Equitable? A. No, sir. If he is discharged by the Equitable we would not want him until we found out why he was discharged, but there is no understanding that would prevent his coming to us.

Q. But is he is not discharged by the Equitable you would not feel that now, under this new understanding, that you could honorably offer him a better position than he had with the Equitable to get him? A. In our own protection we think it is not wise to go after men that are with other companies.

Q. And if in practice it should come—if a man who is em-

*Testimony of Thomas A. Buckner*

ployed by the Equitable should be negotiating with one of your officers for employment by you, you would call for someone in the Equitable to find out if they had any objection to your going on with the negotiations? A. No, sir; we would not negotiate with him.

Q. Not at all? A. No.

Q. Suppose the Equitable told you it had no objections? A. We never ask them.

Q. You don't do it? A. No, unless it is some man who has been out of their service, and we have to find out if he is a reliable man.

Q. You also ask to find if they have any objection to your taking him? A. No, if he has been out of their employ for any length of time.

Q. For how long? A. Six months.

Q. Is that the length of time according to your understanding? A. That is the length of time we have talked over as being a fair time.

Q. You have talked that over with the Equitable and the Mutual and the Prudential? A. Not with the Mutual, but with Mr. Tarbell and Mr. Dexter.

Q. And someone representing the Prudential? A. Yes.

Q. And with someone representing the Metropolitan? A. No, we have no dealings with the Metropolitan along those lines. This is a sort of a general understanding we have had for years with them.

Q. Do you have various kinds of colored cards which would indicate to persons to whom men come, what sort of persons they are, if they are introduced through you? A. I have—I don't think any other company has but myself. If they have I don't know it.

Q. You give a man an introduction on a pink card, that would indicate what? A. We don't have various kinds of cards. I am

*Testimony of Thomas A. Buckner*

in error in saying yes, if that was implied in your question. We have but one color.

Q. What is that? A. I don't recall the color; I think it is pink.

Q. What would that indicate if you gave a man a pink card? A. It would indicate that a man is all right; I would like to see him get a position, and we cannot hold him ourselves.

Q. If you gave a white card what would that indicate? A. We don't have any other kind.

Q. In other words, if you don't give him a pink card, it would indicate what? A. We don't have any other kind.

Q. But if you don't give him a pink card that would mean what? A. I don't think—they could take their own inference from it.

Q. They could draw whatever inference they pleased? A. They could take him or not, as they pleased.

Q. Who would know what that means? A. I think Mr. Tarbell knows and Mr. Dexter, I believe.

Q. Anybody else? A. No, sir; I think not. The card is practically an introduction.

Q. It saves a lot of trouble in writing about a man. A. That is not the purpose of it. This whole understanding was to prevent each other from spending our time in trying to keep the other fellow from taking good men from the other company, and we believe that men who were willing to leave the company were not the best men.

Q. This came up after the little affair in New York between the Equitable and New York Life, and the little affair in Buffalo? A. It had been an arrangement between the New York Life and the Equitable, that is, between individuals in the New York Life and individuals in the Equitable, for a great many years, and it had not been observed absolutely, and the understanding with me was renewed after the affair which you refer to.

*Testimony of Thomas A. Buckner*

Q. You and the Equitable thought there had been enough of that sort of thing? A. Mr. Tarbell and myself thought so. It kept us busy.

Q. That doesn't apply to the smaller companies, you have no such understandings? A. It does not apply to any company.

Q. Well, of course, you distinguish the corporate arrangement from the arrangement with the individual— A. This is purely personal between Mr. Tarbell and myself.

Q. It does not apply to individuals that occupy positions corresponding to that of Mr. Tarbell with smaller companies? A. It applies only to the gentlemen as I have stated, we would be only too glad, however, to have it apply to every company, because we believe that the agents who are like rolling stones gather no moss, agents who leave one company and go to another.

Q. I asked you a moment ago about those commutations, and you told me you had a statement? A. Yes.

Q. If you could let me have it— A. 1903 and 1904 you asked for, and I have both of them (producing paper).

Q. These are commuted. A. Those are commuted or purchased, those are entirely purchasing as I understand it.

MR. HUGHES: I offer them in evidence.

(Papers admitted in evidence and marked Exhibits 210 and 211.)

Q. It is suggested that I ask you whether this procedure with reference to the employments of agents from other companies was followed in other cities or districts, about the time, about 1900 or 1901, were there similar transactions to those that took place in New York and Buffalo in other parts of the country? A. Why, we had, prior to 1902, we had secured agents wherever we could.

Q. Well, I mean—. A. That is, those we wanted.

*Testimony of Thomas A. Buckner*

Q. When there were a large number who had previously served one company at about the same time changed their allegiance and went over to another company. A. I don't think any such wholesale change of companies was made since——

Q. Well, I mean—— A. Since, nor elsewhere. There are isolated cases and individuals, of course, who change companies from time to time.

Q. I asked you to present a statement of the expenses of the foreign agencies? A. Yes.

(Producing a paper.)

As a preliminary to taking the statement of expenses of the company in the various countries, I would like to have you take this and read it on the record as a connecting link between the statement of general expenses which we gave you the other day and foreign expenses, because it forms the basis for this statement. It shows how we arrive at the expenses of foreign countries. I would like very much to have that put on the record as the other was done, because it really ought to have been handed you at the same time.

Q. I will put on your statement. The statement that you desire to have read upon the record is as follows:

September 25, 1905.

EXPENSE RATIOS OF THE NEW YORK LIFE INSURANCE COMPANY FOR THE YEAR 1904.

- The ratios of expense for the year 1904, chargeable against first premiums and renewal premiums respectively, and derived from the "Analyzed Statement of Premiums and Expenses of the New York Life Insurance Company for the year 1904." From the Analyzed Statement, it appears that the first year's premiums received were... \$13,988,186.75

*Testimony of Thomas A. Buckner*

|                                                                                                                                                                                                 |                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| That the acquisition expenses, including direct and indirect were.....                                                                                                                          | \$12,004,890.64 |
| The ratio of this amount to the amount of first year's premiums named above is .....                                                                                                            | 85.822%         |
| It further appears that the amount of renewal premiums received was .....                                                                                                                       | \$64,568,709.73 |
| And that the amount of specific renewal expenses was .....                                                                                                                                      | 2,182,415.43    |
| The ratio of the latter amount to the amount of renewal premiums named above, is .....                                                                                                          | 3.380%          |
| It further appears that the entire premiums, including the first premiums and renewals were..                                                                                                   | 78,556,896.48   |
| And that the remainder of the expenses not accounted for in either of the foregoing categories, and considered as applicable to the entire premiums were .....                                  | 4,895,741.82    |
| The ratio of the latter amount to the amount of the entire premiums named above is .....                                                                                                        | 6.232%          |
| The proportion, therefore, of the first year's premiums necessary to meet the entire charge against such premiums is equal to the sum of the first and the third of the above ratios, i.e. .... | 85.822%         |
| Being .....                                                                                                                                                                                     | 6.232%          |
|                                                                                                                                                                                                 | <hr/>           |
|                                                                                                                                                                                                 | 92.054%         |
| Furthermore, the proportion of the renewal premiums necessary to meet the entire charge against such premiums is equal to the sum of the second and third of the above ratios .....             | 3.380%          |
| Being .....                                                                                                                                                                                     | 6.232%          |
|                                                                                                                                                                                                 | <hr/>           |
|                                                                                                                                                                                                 | 9.612%          |



*Testimony of Thomas A. Buckner*

The two expense ratios—that against first premiums of 92.054 per cent and that against renewal premiums of 9.612 per cent—it is evident are nearly in the proportion of ten to one.

It is our opinion that his is a proportion which holds fairly well for the life insurance business in general. This opinion is held by the best authority on the subject, a standard book annually printed in London, and called "Bourne's Assurance Manual." Ten or more years ago, Wm. Schooling, who was then Editor of this Manual and who is a Fellow of the Institute of Actuaries, and of the Royal Astronomical Society, adopted this basis when making up his tables of comparative expense ratios of all the Companies working in Great Britain. He called it the "Proportion Method," and said that he had received "an all but unanimous expression of opinion from many influential quarters that the Proportion Method, while open to various objections common to all other records, is superior to any other at present in use." This method, with the proportion of ten to one, has been used in the Manual ever since.

Applying this method to the entire life insurance business of this country, i. e., to the aggregate new premiums, renewal premiums and expenses of all the companies for the year 1904, we find that the expenses have exceeded an amount equal to 100 per cent. of the new premiums, plus 10 per cent. of renewal premiums."

THE WITNESS: May I say, inasmuch as you do not want to put on the record the details of all life insurance companies which I have given you on that basis, may I say, that it shows that among the two principal groups of life insurance companies in America, namely, the New York State Companies, and the New England companies, the New York State companies show a lower expense ratio as a whole than those of the New England States.

*Testimony of Thomas A. Buckner*

Q. Well, we shall at the proper time have prepared and submitted tables which will give all these comparative data, and the only reason I do not care at the moment to have this long table covering so many details spread upon the record, is that these matters will be embraced later at the appropriate time in a suitable table, and we will take your statement as to what you understand to be the facts. A. Thank you. I would like to add further to the statement that the expense ratio of the New York Life on the ten-to-one proportionate matter is lower than that of any other company in New York State or in the New England States.

Q. Well, whatever it may be comparatively will later appear. And just what it is in fact we desire to have now. A. You asked for a statement showing the expenses of the company in the various foreign countries. These statements which I hand you show the expenses in the foreign countries, treating as foreign everything except the United States. I would also like to read upon the record, Mr. Hughes, if you do not mind, the preliminary statement which fixes the basis for ascertaining the contributions of these foreign countries toward the general home office expenses of the company.

Q. This would put, as I understand it, in a condensed form, what your answer would be to the question as to the basis upon which these tables are prepared? A. Yes.

Q. And treating it as such it may be a matter of convenience to have this stated? A. Yes.

Q. You preface your tables as to expenses of your various departments with the statement as follows:

"Our figures showing the expenses in the several foreign countries, deal with the total new premiums for each country, the total renewal premiums for each country, and the entire expense for each country. It is a simple matter to compare with these with the expense rate of the company at large, and show whether the foreign business is profitable to

*Testimony of Thomas A. Buckner*

the American policyholders or not. This has been done in the accompanying two tables entitled premium expenses through Paris direction for 1904, and premium expenses in foreign countries reporting direct to home office for the year 1904.

"In these tables a hypothetical amount of expense is allotted to each country on the basis of each country's general expense rate for 1904 set forth in the memorandum entitled Expense Ratios of the New York Life Insurance Company for the year 1904. The hypothetical amount of expense thus allotted for each country is compared with the actual expense for the country and the difference representing the shares saved and the reverse is compared with the company's general expense rate as shown. The net result is to show that the countries reporting through Paris direction, after paying their own expenses and the expenses of the Paris direction in the year 1904, have made a contribution to the home office expenses of \$79,837. Also that the other foreign countries, after paying their own expense, have in the said year 1904 made a contribution to the home office expenses of \$302,934, making a total contribution of foreign countries to the home office expenses during 1904 of \$382,171. The entire amount of premiums received in all the foreign countries as shown in the two tables is \$22,187,671, and the net contribution which they made to the home office expenses was therefore 1.7 per cent., a proportion which we consider ample to cover their share of the home office expenses applicable to them in connection with the necessary business."

Q. Now, then, you follow that with the tables entitled, as you have stated, Premiums and expenses through Paris direction for the year 1904? A. Yes.

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit 212.)

*Testimony of Thomas A. Buckner*

MR. HUGHES: Also premiums and expenses for foreign countries reporting direct to the home office for the year 1904.

(Paper marked Exhibit 213.)

Q. Then you give me a statement as to 1905 in which you say we have been gradually changing the plan of organization in Europe to bring such organization into harmony with the American plan with the object of lowering the expense of obtaining business in various countries in Europe. Our plans are proving successful, as shown by the trade of the first six months in this year. These are shown in the accompanying table, in which is shown the premium expense for Paris direction for the first half of 1905. This shows that the European countries, after paying their own expenses and the expenses of Paris direction have made a contribution to the home office expenses of \$164,523. The entire amount of premiums received in these countries in the first half of 1905 amounts to \$8,954,744. The net contribution which they make to the home office expenses during the first half of 1905 is, therefore, 1.8, an ample proportion to cover their share of the home office expenses applicable to them in connection with the necessary business.

MR. HUGHES: Then you produce the table for the first half of the year 1905, which I offer in evidence.

(Paper marked Exhibit 214.)

Q. In this first table for 1904 you have a number of countries which you say are handled through Paris direction? A. Yes.

Q. I suppose you mean by that that the Paris office is the head office for all the countries mentioned?

*Testimony of Thomas A. Buckner*

Q. And that is in charge of one of your vice presidents, Mr. Ingersoll? A. Yes.

Q. You also have a director general of the business under Mr. Ingersoll? A. We have a superintendent of agency.

Q. Who is he? A. Mr Walker Buckner.

Q. Is he a relative of yours? A. My brother.

Q. How long has he been superintendent of agency? A. He went over there quite recently, I think about a year and a half perhaps.

Q. What is Mr. Ingersoll's salary? A. I think it is about \$21,000—it is in francs.

Q. Has he any interest in business or commission on any business in addition to his salary? A. No.

Q. Or any bonuses or interest in bonuses? A. No.

Q. Mr. Walker Buckner, what is his salary? A. I think \$15,000.

Q. Has he any commission or interest in business in addition to his salary? A. None except through Nylic for agency directors.

Q. The countries reporting through the Paris direction, that is reporting to the Paris office, are all your departments in Europe and Africa? A. Yes.

Q. Your departments in Canada, the West Indies, Mexico, South America, the far Orient and Australasia report direct to the home office? A. Yes, and India.

Q. You have under the various headings a statement of the first year's premiums and renewal premiums, and then an apportionment of premiums on those ratios that are explained in your statement of 92.054 of the first year's premium and 9.612 of the renewal premium and a resulting sum, the aggregate of those which you treat as hypothetical expenses of the company in the departments? A. Yes, sir, of those two ratios.

Q. Well, those two make 100 per cent? A. Yes, and that is

*Testimony of Thomas A. Buckner*

their share—that is the expense that they would be entitled to on the company's general ratio basis.

Q. As a matter of fact, for some reason, they make 101 per cent which I do not quite understand. A. Yes, but they are on different subjects, I don't think that is relevant. In other words—.

Q. One is first year's premiums? A. One is first year's premiums and the other renewal premiums.

Q. And you take these two amounts and add them together and you get what the expense of a given foreign department would be if its ratio of expense was the same as the ratio of expense of your business taken as a whole? A. That is correct.

Q. Then if the business is transacted at a lower amount than that expense, which would be the expense on the average business as a whole, you regard the department as a profitable one? A. It may be profitable even if it shows a lower amount, because there are other elements involved.

Q. I say assuming if it shows a lower amount than you credit it hypothetically? A. Yes, what I mean to say it would be—it may be profitable if it showed a higher amount.

Q. And it might be very unprofitable if it showed a higher rate if the total expense of your business was extended? A. I don't know how—.

Q. In other words if the New York Life is doing business at an excessive expense, the fact that any particular department maintains an average of expense equal to the average on the whole would not show that it was a profitable department, broadly considered? A. Not necessarily, but the question of excessive expenses is a relative one.

Q. Exactly, and that is one very important subject which we will have to consider. Now when we leave these hypothetical expenses based upon the general average, we have next as the actual

*Testimony of Thomas A. Buckner*

amount of money which they paid out in that department, \$235,-267? A. For one country.

Q. I am speaking of one department, it happens to be the first one, Austria? A. Yes.

Q. In that column we have the actual amount paid out for Austria? A. Yes.

Q. Does that include any of the expenses of the parent office or direction? A. Not in that column. We have added that at the bottom as a lump sum.

Q. That is you—— A. We allotted the entire Paris expense to the entire Paris direction.

Q. As it should be. A. As it should be.

Q. Do you include any of the home office expenses which have reference to the maintenance and supervision of the foreign agencies in these expenses? A. Not in the figures. That is included in the résumé which you read upon the record.

Q. Is there a separate department for Paris itself as opposed to the rest of France? A. Yes, we treat it from an agency standpoint as a separate organization, the city of Paris.

Q. But in your report you put Paris and the rest of France together in one item? A. Yes, we treat France as a whole in this report. Paris is in no sense separate any more than any branch office in a country covering a district is separate from the country as a whole.

Q. Now, apart from Mr. Ingersoll and Mr. Walker Buckner who are employed at the Paris office? A. We have a great many——

Q. Apart from mere clerks, I mean? A. We have a great many sub-officials.

Q. Who are they? A. Or rather, we have a great many officials. We have an actuary, Mr. Davidson; we have a comptroller, Mr. Duncanson; we have two medical directors, Drs. Lyons and Delaverne; we have an auditor, Mr. Horan; we have

*Testimony of Thomas A. Buckner*

two resident secretaries, Messrs. Seguin—I cannot spell his name.

Q. Perhaps it is easier to spell it than to pronounce it. A. No, it is easier to pronounce it. Seguin, I think, but it is a French name. And another gentleman whose name does not occur to me at this moment. A full corps of officers.

Q. What is the amount paid to the corps of officers at the Paris office? A. That I don't know. I can get you that.

Q. You are in general charge of the foreign business? A. Yes, but I have not it tabled up and have not it in mind. Each one is given a salary, from Mr. Ingersoll down.

Q. You can give me that data? A. I think so. I am not positive about our records here being complete on that. I would like to say on the record, Mr. Hughes, if you will permit me, in regard to my brother, who is superintendent of agencies, that he does not owe his position in any sense to me. He has been in the business almost as long as I have and came with the company as an office boy 22 years ago.

Q. Well, being your brother, it is not necessary to say that. A. Thank you.

Q. Now, the New York Life Insurance Company has a building in Paris? A. Yes.

Q. Which is carried on the books of the company at what amount? A. I don't know, it is probably in the detailed report there.

Q. It is carried on the books at \$1,300,000? A. That is correct.

Q. That is under the head of book value. Does that mean that it costs that much? A. I don't know.

Q. What is book value supposed to stand for? A. That I don't know. It might be the cost or it might be the value itself on the books now.



*Testimony of Thomas A. Buckner*

Q. Although it costs more, something may have been written off? A. Something may have been written off.

Q. Have we got anything here showing how that amount is arrived at? A. I suppose the gentlemen in charge of the real estate department could tell you that.

Q. Is the comptroller here? A. He is not here, but I don't believe he would know.

Q. Where is this account kept which will show the disbursements on the Paris building and just what that cost you? A. That I don't know. The President would know.

Q. The comptroller would know? A. The comptroller could find out.

Q. But who is the officer who has that in charge? A. Mr. Devlin, I believe, has charge of the real estate.

Q. Including the foreign real estate? A. I am not certain about it, but he can find out.

Q. Do you know what income the New York Life Insurance Company gets from its investment in that building in Paris? A. I do not. I can say that I do know that we use practically all the building for our own office purposes with the exception of the ground floor on the corner, which is used for the Café Riche.

Q. What do you get from the Café Riche? A. That I don't know. I presume that the agency end of the work is charged up with the rental according to the space we occupy as an expenditure.

Q. That is one of the things we want to find out, just how that is managed? A. Mr. Devlin, the superintendent of the real estate department, can tell you all about it, I think.

Q. Then he can give us a statement of each one of these foreign office buildings? A. I think so.

Q. And can show what the income is, how much is a charge in the expenses of the agencies, the cost for the use of whole or

*Testimony of Thomas A. Buckner*

portions of such buildings? A. Yes, sir, I think in every case the agency is charged exactly as any other tenant, per square foot.

Q. And those accounts are kept in New York here? A. I think they are. If they are not we can get them for you.

Q. And you yourself are not familiar with any of these items? A. I am not familiar with the real estate end of it at all.

Q. The company owns buildings in Paris, Budapest, Berlin, Vienna, Amsterdam, and Belgrade? A. That is correct.

BY MR. ROGERS:

Q. I want to ask as a matter of general information, how the foreign business of the New York Life compares with that of the other companies, is it of a larger magnitude? A. Yes, I think our foreign business is much larger than that of others, as our domestic business is larger than that of any other company. It is also larger in foreign countries, our foreign business.

BY MR. HUGHES:

Q. You mean larger than the business of any foreign company? A. Yes, sir, I think so, and also larger than any American company, as the gentleman asked me.

Q. Do you keep an account in your books with a particular department in which the amount of earnings or receipts from that department are entered and the amount expended for the department is entered, I mean here in New York? A. Not for the European business. We keep it in Europe. We keep it in Paris.

Q. These figures that you have given me here are derived from what books? A. Those figures were given to me in Paris when I was there this summer, for my own information I brought them home, thinking they might be of service to the Committee.

Q. So these are made up from data in the Paris office so far as all these countries reporting to Paris are concerned? A. Yes.

Q. And you have nothing here but what you brought home with you? A. That is all.

*Testimony of Thomas A. Buckner*

Q. But as to the countries reporting to the home office, you keep separate accounts with those countries, do you? A. We keep—not as full as I have given it to you here, but we do keep accounts. In these statements I have given you all expenses of every kind and character are charged up as an expense against each country, regardless of whether it is expenses pertaining to getting new business or handling old business.

Q. I would like to have you give me a statement of the salaries paid at the Paris office? A. To the officers?

Q. To the officers and also the salaries paid to the other officials in the other offices. A. We have no officials except in the Paris office.

Q. Except the agency director? A. Except the inspectors, agency directors and other agents.

Q. Then you can easily give me the data as to the other officers, apart, of course, from clerks and supervising force? A. I think I can give you the chief men.

Q. Then I should like to have Mr. Devlin here with his books, so he can tell us just what these various real estate investments have been and what income is derived from them. A. I have a statement here in general as to the salaries paid to inspectors of agencies, and supervisors, and agency directors in the United States, and similar statements for foreign business not in detail.

Q. Well, we will put it in evidence. A. You asked me the other day the highest salary paid to the agency directors in this country. I find we have one man to whom we pay \$7,500. I think my answer was \$6,000. We have two men to whom we pay \$6,000 and two other men to whom we pay \$5,000 each. All the rest are below that figure.

Q. Does any officer of the New York Life get any commission on any business? A. None whatever.

Q. Or any interest or bonus on account of any business obtained by the company? A. No, sir.

*Testimony of Thomas A. Buckner*

Q. Whether in relation to domestic or foreign business? A. No, sir. You refer to Executive officers.

Q. I refer to the Executive Officers? A. No, sir; none whatever.

Q. They get nothing but the salaries which have been stated? A. Nothing but the salaries which have been stated.

Q. The inspectors of agencies get nothing but their salaries, and the contract bonuses? A. And they have an interest in Nylic for agency directors.

Q. The agency directors get salaries and bonuses? A. Salaries and contract bonuses, using the word as explained to-day, by Mr. Perkins.

MR. HUGHES: I offer in evidence this statement which has been furnished.

(Papers marked Exhibits 215 and 216.)

THE CHAIRMAN: Mr. Hughes, if you have reached a convenient place we will adjourn.

MR. HUGHES: Yes, if you will permit me to offer in evidence a statement which has been furnished me completing the statement regarding the account of Louis M. Bailey, Trustee, referred to this morning in connection with the account of George H. Squire, Trustee.

THE CHAIRMAN: One of the Committee wants to know if that shows a still open account?

MR. HUGHES reads Exhibit No. 217.

(This statement was marked Exhibit No. 217.)

MR. HUGHES: Mr. Winthrop would like to make a statement explanatory of these matters.

*Testimony of Henry Rogers Winthrop*

H. R. WINTHROP, resumes :

BY MR. HUGHES :

Q. I understand you desire to make an explanation regarding these matters. A. That statement that you now have in evidence is the statement of how the loans stood with interest on the last day of June of this year. That has been prepared by the expert accountant now at work on the books of the Society. I am informed by Mr. Morton that in the next few days those loans will be paid off and the securites held as collateral will be carried on the books of the company.

MR. HUGHES : That is all.

THE CHAIRMAN : The Committee will now take a recess until 10.30 to-morrow morning.



ALDERMANIC CHAMBER,  
CITY HALL, NEW YORK CITY.

September 29, 1905.

The Committee met pursuant to adjournment, Senator Armstrong in the chair.

MR. HUGHES: Mr. Schiff, will you take the stand?

JACOB H. SCHIFF, called as a witness, being duly sworn, testified as follows:

BY MR. HUGHES:

Q. Mr. Schiff, you are the senior member of Kuhn, Loeb & Company? A. I am.

Q. Of the city of New York? A. Yes.

Q. What is the business of that firm. A. Banking business—they are bankers.

Q. How long have you been connected with it? A. Some 30 years.

Q. When did you first become connected with the Equitable Life Assurance Society in an official way? A. As far as I can remember I became a director in the latter part of 1893 or early part of 1894.

Q. Had Kuhn, Loeb & Company prior to that time had transactions with the Equitable Society? A. Kuhn, Loeb & Company had been dealing with the Equitable for upward of a quarter of a century.

*Testimony of Jacob H. Schiff*

Q. Had Kuhn, Loeb & Company also been dealing with other insurance companies in the city of New York? A. Yes, in the handling of trust funds.

Q. At the time you became a director of the Equitable did the question of the propriety of your becoming such director, in view of the transactions of Kuhn, Loeb & Company with the society, occur to you? A. It did.

Q. Did you take advice upon that subject? A. We took advice from counsel.

Q. With reference to what? A. With reference to the question whether our dealings with the Equitable Life should continue in the same manner as before, after I became a director.

Q. How were you advised upon that? A. We were advised, after submitting the exact nature of our dealings, that there was nothing in the way of my becoming a director of the society.

Q. The dealings you refer to were dealings of sales to the society and I suppose from time to time purchases from the society? A. That is correct.

Q. Prior to the time of your becoming a director had there been any syndicate operations in which Kuhn, Loeb & Company were syndicate managers in which the Equitable Society was interested? A. I assume so.

Q. Did the question which arose in your mind extend to those matters as well? A. It did, in regard to all our dealings with the society.

Q. How long were you a director of the Equitable Life Assurance Society before you became a member of any committee of the board? A. I cannot say exactly, but I believe some seven or eight years.

Q. So that it was about five years ago that you went on one of the committees? A. Something like that.

Q. And that was the Finance Committee? A. And that was the Finance Committee.



*Testimony of Jacob H. Schiff*

Q. Were you ever a member of any other committee? A. I was not.

Q. Prior to the time that you became a member of the Finance Committee and while you were simply a director of the society, what did you do as director? A. I directed as much as under the prevailing usages in corporations was permitted me to direct; in other words, I went to the meetings of the society when they were called, I listened to the reports as submitted by the executive officers, and I voted upon the same and I gave such advice as was asked of me. And if you will permit me, Mr. Hughes, to say right here, because I suppose it will come up later, that the system of directorship in great corporations of the city of New York is such that a director has practically no power; he is considered, in many instances, and I may say in most instances, as a negligible quantity by the executive officers of the society; he is asked for advice when it suits the executive officers, and if under the prevailing system an executive officer wishes to do wrong or wishes to conceal anything from his directors or commit irregularities such as have been disclosed here, the director is entirely powerless, he can only be used in an advisory capacity and can only judge of such things as are submitted to him.

Q. Of what use, then, are directors except to comply with a formal provision of the law? A. I think that it is a very proper question, and I believe they are of very little use, I am sorry to say, sir.

Q. You have found that to be the case in the Equitable Life Assurance Society during the years that you were simply a director? A. Yes.

Q. The meetings were four times a year? A. Yes.

Q. You attended those meetings and heard what was said but very likely you would have no first-hand information as to the matter? A. Yes.

Q. And then there would be special meetings from time to time

*Testimony of Jacob H. Schiff*

at which you would hear what was said and if anybody wanted your advice you gave it, otherwise you knew nothing of the transactions personally? A. I don't want to say—I gave you a general view—I don't want to say, however, that I did not give any advice unless it was wanted. Very frequently when things came up upon which I thought I should give advice, even it was not asked, I took the liberty of giving such advice and gave it sometimes very forcibly.

Q. That is when questions came to your attention where you thought your advice should be given? A. Yes.

Q. And would be of value? A. Yes.

Q. Of course the management of the affairs of the Society was in the hands of the executive officers, the usage being in that Society practically what you have said it is generally in corporations? A. That is correct.

Q. And you had no means as a director of knowing what the executive officers were doing unless they saw fit to tell you? A. That is correct.

Q. And these executive officers, I suppose, were assisted in the transaction of their duties by committees formed from the board? A. As far as the Equitable is concerned, the management of the Society was practically exclusively in the hands of the executive officers and the Executive Committee.

Q. Yes. You were not at any time a member of the Executive Committee, I believe? A. I was asked several times to join it and I declined because of the dealings of my firm with the society.

Q. Well, in what way did you think—or for what reason did you think it would be improper for you to act as a member of the Executive Committee on account of the relations of your firm to the Society? A. Because I did not think it would be proper for me to, judge and give decisions upon transactions

*Testimony of Jacob H. Schiff*

which my firm proposed to enter with the Society or the Society proposed to enter with my firm.

Q. And as a member of the Executive Committee, charged under the by-laws with looking after investments, it would be necessary for you to pass upon transactions directly with your firm? A. It would have to be.

Q. And that you thought would be improper? A. Yes.

Q. And you still think so? A. Yes.

Q. Do you think it is proper for an officer of a life insurance company to pass upon transactions between the Society and his firm? A. I do not say that it is improper, but personally I have thought and have expressed it to the officers of the Society who have asked me to become a member of the Executive Committee, that I did not feel that I could judge as to transactions which might come up between myself and the Equitable Society.

Q. That is a position that personally you would not care to take? A. Yes.

Q. Now, during this time that you were a director of the Society and down to a very recent period, I understand, you were qualified by shares of stock transferred to you by Mr. Hyde or by some of the trustees? A. By Mr. Henry B. Hyde.

Q. Stock in which you had no beneficial ownership? A. That is correct.

Q. The certificates being retransferred to the trustee under Mr. Hyde's settlement? A. I understand it, the certificates stood in my name, they were endorsed in blank, and the dividends were paid to Mr. Hyde, who was the owner. I was under the impression and still am under the impression, that that satisfies the legal requirements.

Q. But when I say that you had no beneficial interest, I mean you did not receive dividends nor deemed yourself entitled to dividends upon the stock? A. No, that is correct, except I

*Testimony of Jacob H. Schiff*

should add that some months ago when the question came up was the said form—or did such a holding form a legal qualification, I went into the market and bought five shares of stock, and in recent months, so long as I continued a director, I held five shares of my own purchase.

Q. That purchase to which you refer was made in the early part of 1905? A. I think, as far as I remember, it was in the beginning of the month of May, 1905.

Q. And prior to that time your qualification was as I have stated? A. Yes.

Q. You were not a policyholder in the company? A. I am a policyholder now.

Q. I know, but prior to that time, say last February? A. I was not. And I should add that I had taken out no life insurance in any other company for a period, I think, of some thirty years.

Q. You were in no different position from that occupied by many of the other directors of the Society so far as your qualification is concerned? A. So far as I know, I was not.

Q. But as a matter of fact, you held your position as director solely at the request of Mr. Hyde? A. I think when I became a director I was asked by a number of other directors to join and it was not exclusively by Mr. Hyde—Henry B. Hyde.

Q. If Mr. Henry B. Hyde, as the owner of the stock originally or those who succeeded to his interest had at any time expressed a desire that you should have resigned, you would of course have complied with it? A. I am not so certain of that. I could at any time have gone into the market and bought five shares of stock and continued until by a majority vote I was turned out, and I don't think that at the dictation of a single man I would have resigned.

Q. Of course in this case the dictation of a single man controlling the majority of the stock—that was the point of my

*Testimony of Jacob H. Schiff*

question. A. That was Mr. Hyde, but I want to emphasize that I do not think at his dictation I would have resigned.

Q. But if you would not have resigned, of course he could have prevented your re-election? A. He could have put me out.

Q. The same obtained in the Equitable as obtained in all stock corporations, the control of the majority of the stock absolutely dominated the directors? A. Yes.

Q. And through that the appointment of the executive officers and the management of the Society? A. That is correct. But I want to add that there is a great difference between resigning at the dictation of a man or to keep your independence and be put out.

Q. And a man would even prefer to be put out than go voluntarily, that is, of course, than to resign? A. Yes.

Q. Then you, in 1900, became a member of the Finance Committee? A. I don't remember whether it was exactly 1900—

Q. Well, about? A. We will call it about that.

Q. What did you have to do as a member of the Finance Committee? A. I was asked to become a member of the Finance Committee so as to give my judgment on securities purchased by the Society, so that the officers of the Society and members of the Executive Committee should be free to advise with me as to the securities the Society intended to purchase or had purchased.

Q. They were already free to advise with you, were they not? A. They probably felt that as a member of the Finance Committee I could follow more closely the investments of the society and that they could better advise with me as to things that should be sold and replaced by others, and investments that should be acquired.

Q. It was to establish a closer relation? A. As far as the quality of investments was concerned.

Q. Yes. Well, now, you have said that you had some ques-

*Testimony of Jacob H. Schiff*

tion as to the propriety of one in your position becoming a member of the Executive Committee? A. Yes.

Q. Did not that question also come into your mind in connection with your becoming a member of the Finance Committee? A. It did not, and for this reason, that the Finance Committee in the Equitable Society does not decide the purchase or sale of any securities. The Finance Committee meets once a month, and has before it a report of what has been done, not what is going to be done. It is a record of purchases and sales of securities that came before the Finance Committee, securities that had actually been purchased and paid for and sold and payment received. All the Finance Committee can do then is to say this ought not to have been done, this is not a proper investment for the society, and in such case it can only be undone by resale or a repurchase of securities. Otherwise, the action of the Finance Committee has only been perfunctory.

Q. And of what value then could your advice be as a member of the Finance Committee with regard to investments? A. It could be just of the same value as the judgment of a higher court or of a court of advisors. The Equitable Society buys a great many securities. Sometimes the Executive Committee may not have had all knowledge regarding such securities and may have considered them as a proper investment, and still my experience might have said: No, it is better that the society should not have such and such an investment, and then I would have said, as has happened—not in many instances, because I must do justice to the Executive Committee that they are very careful in what they purchased—then I would have said we ought not to hold this, and, without hesitation, it would have been sold. This happened in very exceptional instances.

Q. How many times do you suppose that happened during the four or five years that you were a member of the Committee? A. I cannot now remember.

*Testimony of Jacob H. Schiff*

Q. Half a dozen times? A. I cannot now remember. I remember one or two instances—I don't remember the security. I think I remember two or three instances, when I said: "These securities we ought not to have bought," and I was sure they could be resold, and they were resold.

Q. With the exception of those cases, do I understand that all you did as a member of the Finance Committee was to hear a statement of what had been done and approve it? A. I had no choice to do anything else.

Q. Yes, and that was all it was. Perhaps I misunderstood you a moment ago, but I gathered from what you said that you went into the Finance Committee to be in a position where you could advise regarding investments, and I understood from what you said, that it might mean about investments that were in contemplation? A. No, sir.

Q. Was I in error about that? A. You were in error about that.

Q. You were there only that you might be in a position to hear what had been done? A. Yes.

Q. Well, it wasn't of much importance, was it, that you should do that? A. It was not especially, as I believe I was the only member of the Finance Committee for a considerable time—I believe for a time Mr. Cornelius N. Bliss and I were the only members of the Finance Committee who were not members of the Executive Committee, and afterwards Mr. Bliss resigned and I remained the only member of that Committee who was not a member of the Executive Committee and I called attention to it. I said, practically the Finance Committee was only sitting in judgment upon itself, and that ought to be changed, and that the Executive Committee ought to report directly to the Board. That was not done.

Q. Was it a surprise to you to find that your duties as a member of the Finance Committee were so perfunctory? A. I cannot

*Testimony of Jacob H. Schiff*

say that it was a surprise to me, because when I became a member of the Finance Committee I read the by-laws and endeavored to find out what were the duties of the Finance Committee and I found that they were to determine the periods of the meetings of the society, which it did; that it was to determine such matters as were brought before it by the Executive Committee, and that it should have supervision over the accounts of the society. But this supervision over the accounts of the society was delegated to a separate committee, the Auditing Committee, and which reported direct to the board. So such functions which the by-laws provided for the Finance Committee were practically taken out of its hands by the board itself, and committed to another committee, so that the only thing for the Finance Committee, as I have stated, was the fixing of the dates at which the directors should meet, and other minor matters, and supervision of the investments, already made.

Q. The by-law to which you refer, defining the duties of the Finance Committee is by-law 19, is it not? A. Yes, sir.

MR. HUGHES: I will read that upon the record:

“Section 19 of the by-laws:

“The Finance Committee shall consist of ten directors and the president, six of whom shall be a quorum, and shall superintend the making of investments by the Executive Committee, who shall report to the Finance Committee at each meeting the investments made in the interval, and the Finance Committee may direct the change of investments or securities. The Finance Committee shall also superintend the manner in which the accounts of the society shall be kept, and all matters connected with the finances and expenses of the society, and may itself, or through the Executive Committee, or through such persons as it may designate,



*Testimony of Jacob H. Schiff*

audit all bills and examine and check the cash payments with the vouchers."

Q. Now, do I understand you to say that the board deprived the Finance Committee of any of its functions under that article in effect? A. As I understand, they gave the duties to the Audit Committee, and as the Audit Committee reported direct to the board there was no use of the Finance Committee to do it too. And I want to add here, in large corporations these matters are regulated to a great extent by custom, that is, for the Executive Committee or Executive Officers to bring before the committee what it is intended that they should act upon. And when I was a member of the Finance Committee, or when I became a member of the Finance Committee, the society, as much as I know, had acted under the same by-laws for a long number of years and the custom of what the Finance Committee had to do was well established.

Q. When you refer to the Auditing Committee, do you mean the Committee on Accounts referred to in By-law 23? A. I do.

MR. HUGHES: I will read that upon the record:

Section 23:

"The Committee on Accounts shall consist of five directors, two of whom shall constitute a quorum, who shall examine and audit all accounts, receipts, and payments not audited by the Committee on Finance or under its direction."

Q. You will understand from that, will you not, that the Committee on Finance under these by-laws, and apart from the custom that had grown up, which you describe, had full authority to supervise the accounts of the society? A. It appears under the

*Testimony of Jacob H. Schiff*

by-laws that is correct. But, as I repeat, it was the custom as the Committee on Accounts reported direct to the Board of Directors of the society, made a written report at stated times, that the Committee on Finance action was not considered necessary any further.

Q. Did you serve at all on the Committee on Accounts? A. I did not.

Q. Do you know who constituted the Committee on Accounts for the last few years? A. I do not remember, but I know that they were very eminent directors of the society.

Q. I am handed a list of five. Will you kindly see if you recognize those names as the names of the Committee on Accounts for some years at least (handing paper to witness)? A. I cannot remember whether it is correct. I suppose since it was handed to you it must be correct.

Q. Well, it was handed to me by one of the officers of the society, subject to correction in case it appears to be erroneous. A. I can't vouch for its being correct.

Q. I will read it upon the record: William Alexander, T. D. Jordan, C. B. Alexander, V. P. Snyder, and W. H. McIntyre. Now, when you first went on the Finance Committee you examined the by-laws, as I understand it, to see what your duties were. Did you take up the question of the propriety of this custom of leaving the matter to the Committee on Accounts? A. I did not.

Q. Do I understand that it is frequently the case that the by-laws are disregarded by customs which spring up? A. It is difficult to answer for others. Apparently in the Equitable they have been disregarded.

Q. In the Equitable that has been the case? A. Yes, sir.

Q. My attention is called by one of the officers of the society to the fact that two members of the Finance Committee regularly reported to the Finance Committee that bills against the society had been examined and the cash payments had been checked with

*Testimony of Jacob H. Schiff*

the vouchers, which would seem to indicate that the Finance Committee did, through some of its members, attempt a supervision of the accounts of the society. Do you recall that? A. I cannot recall.

Q. I have here, for example, the minutes of the Finance Committee on Monday, January 4, 1904, at which it appears there were present: Messrs. Wheelock, Schiff, Squire, Jordan, Baldwin, Deming, the president, vice-president and secretary of the committee.

"The minutes of the last meeting were read and approved. The purchase of securities to the amount of \$3,109,700 and the sale of securities to the amount of \$2,122,200 were reported and were approved as recorded in the security register. Applications for loans upon mortgage were submitted to the amount of \$1,108,000 and were approved to the amount of \$970,000, as recorded in the Bond & Mortgage Register. The following report dated December 31, 1903, was submitted to the committee:

"The Finance Committee:

"Gentlemen:

"The undersigned would report that in accordance with the designation of the committee under section 19 of the by-laws of the society, they have examined all bills against the society and have checked the cash payments with the vouchers.

"Respectfully,

"William H. McIntyre, Fourth Vice-President.

"Thomas D. Jordan, Comptroller.'

"On motion resolved that the next meeting of the directors be held——"

*Testimony of Jacob H. Schiff*

Q. That is a separate matter, I guess, is it not?

MR. WINTHROP: Yes, that is separate.

THE WITNESS: I suppose that is correct.

Q. Now, refreshing your memory by that you would be able to say that the Finance Committee annually appointed two of its members to make an audit and to report to the committee, and that report was duly submitted? A. The chairman of the Finance Committee makes these appointments, not the Finance Committee.

Q. I see. This report of Mr. McIntyre and Mr. Jordan refers to a designation of the committee. You think that was a designation of the committee through the action of its chairman? A. I have no doubt of that.

Q. The reason that I ask these questions is quite obvious. We have had here a state of affairs disclosed by the testimony with reference to the accounts of the Equitable Society with which probably the published reports have made you familiar. We find accounts, for example, kept in the names of other parties, there are some funds apparently belonging to the society not accounted for, and I want to know just what actual supervision there was of this matter and how far the by-laws of the society were complied with. Now I understand that the fact of the matter was that the executive officers had full charge, that the Finance Committee met and considered investments after they had been made? A. That is correct.

Q. And dealt with the sales of securities by way of approval after they had been completed? A. That is certainly provided for in the by-laws, and on the committees they could do nothing else.

Q. And that with reference to this important power of super-

*Testimony of Jacob H. Schiff*

vision of accounts of the society which, under the by-laws, was lodged in the Finance Committee, the committee did nothing but have two of the executive officers themselves report to the Finance Committee that everything was all right? A. The auditing committee attended to it, and this sub-committee of the Finance Committee, as you have read to me yourself. And as the supposition is, Mr. Hughes, that important officials are honest men, the members of the Finance Committee assumed that they were acting honestly.

Q. Of course, checks are entirely unnecessary if all men act honestly. A. These checks were put in the hands of these selected agents, the Auditing Committee, and the committee appointed by the chairman. In every company the chairman of a committee appoints, as you know, the sub-committee, and you cannot suppose that men follow irregular practices. I would rather go through this world and believe every man honest until I found out that he has been dishonest than to go through this world and suppose every man is dishonest until I find out he is honest. That has been my practice as a director of the Equitable Society.

Q. Now, from the facts that have come to notice is it your opinion as a citizen that there should be a closer supervision of the actions of executive officers of insurance companies? A. No doubt about it. But no law which you may frame and which the Legislature may enact, no law, however close it may be, will protect you against dishonest actions or dishonest methods.

Q. Well, do you think it is entirely hopeless to endeavor to have supervision of the actions of executive officers and a condition of things in which they will be actually responsible and held accountable? A. This State pays a superintendent of insurance, he has a very high position, and he is supposed to have a set of accountants. Do you expect every director or every member of a committee, be it the Finance Committee or a similar committee, to have a set of accountants at his disposal and go into

*Testimony of Jacob H. Schiff*

the accounts of the society, whatever it may be, be it life insurance or bank or trust company? Do you expect him to do that? If you do you won't find a respectable director in the city of New York willing to become a member of the board of any society.

Q. Now, let us see just what the practice is that actually obtains. Do I understand, for example, that in the case of the Equitable that the actions of the executive officers were left exclusively to audit by the executive officers? A. I do not now remember who the sub-committees were. You say they were executive officers and I take your word for it, but these were executive directors.

Q. I find there that they were Mr. McIntyre and Mr. Jordan. A. Suppose they were, who appointed them?

Q. Well, who was the chairman? A. Who was the chairman of the Executive Committee? I don't know who was the chairman. I believe Mr. Hyde, and I believe the chairman of the Finance Committee of late is—I don't know who it was—I think it was Mr. Hyde also. It was all Hyde; all Hyde and Alexander.

Q. Well, that gives point to my question. Now, a moment ago you were referring to a committee on accounts representing the Board of Directors, reporting, as I understood you, to the Board of Directors and consisting of very estimable gentlemen? A. Yes.

Q. Now, did those gentlemen act in supervising the accounts through some sub-committee composed of the executive officers themselves? A. Yes, because the chairman had the right, it was his privilege to appoint them, and he appointed his men. The committee had nothing to say about it. You might as well go immediately to the very bottom of the whole question, of the whole system. You said before Mr. Hyde had a majority of the stock. You might say to the directors, you made a mistake to become directors of the Equitable, and we did. We all learn

*Testimony of Jacob H. Schiff*

by experience. And I don't think I will go in the same system again, or be subjected to the consequences of the same system.

Q. Why do you say that? Why did they make a mistake?

A. They made a mistake that they became members of a society that was not only by custom, but actually at the mercy of one man.

Q. Then you do not think that it is a good thing for an insurance company or the management of an insurance company to be at the mercy of one man? A. I don't think it is a good thing for any corporation to be at the mercy of one man.

Q. Then do you think that the power which must necessarily be lodged with some executive in order to have efficient management should be subject to some restriction and supervision? A. I think so, most decidedly.

Q. On a higher scale, I suppose, you would desire to see the business of a great insurance company looked after as closely as you would the business of your banking firm? A. That is correct.

Q. And you would desire to see those that have the management of the finances of insurance corporations held as strictly to accountability as you would hold your cashiers and other persons who handle the moneys of your firm? A. The executive officers, yes.

Q. Yes. A. Those who have the facilities look after the finances.

Q. Yes. In other words, you do not believe in irresponsible powers? A. You are correct.

Q. And that has been the vice of this insurance situation in your judgment, has it not? A. To a great extent.

Q. Now you have explained very fully and frankly the manner in which the management of the Equitable Society was conducted—— A. As far as I know.

Q. Did you ever hear during your connection with the Society

*Testimony of Jacob H. Schiff*

that there was an account of George H. Squire, trustee? A. I did not.

Q. Or an account known as the J. W. Alexander No. 3 account? A. I did not.

Q. Or an account known as the Alexander and Jordan account? A. I did not.

Q. Or an account known as the Marcellus Hartley account? A. I did not.

Q. Or an account known as the Louis M. Bailey account? A. I did not.

Q. Was it ever brought to your attention while you were in the Finance Committee of the Society or on the Board of Directors that any funds from the Society were carried in accounts not under its name? A. It was not.

Q. You never heard of that in any way? A. In no way.

Q. I notice that this by-law speaks of a supervision by the Finance Committee over expenditures of the Society which, I assume, would mean a very general supervision if any; but in the course of such supervision did you ever become acquainted with any payments made for the Equitable Society for the purposes of aiding a political party in its campaign? A. I did not.

Q. Never heard of anything of the kind? A. I did not.

Q. That never came under your attention as a member of the committee of course or you would have heard it? A. No.

Q. Nothing of the sort? A. It did not except at the close—long after the last election I was informed by Mr. Bliss that Mr. Hyde had made a contribution to the Republican campaign fund, but it was not stated whether it was on his own account or for the account of the Society, and as far as I know it was not for the account of the Society.

Q. Did you take any measures to ascertain whether or not the funds of the Society had been used? A. I assumed that they had not been so used.



*Testimony of Jacob H. Schiff*

Q. Did you ask Mr. Bliss as to that? A. I did not.

Q. Or Mr. Hyde? A. I did not.

Q. You saw Mr. Hyde from time to time? A. Of late months I have seen very little of him.

Q. I mean, of course, when this occurred last fall—I understand this was some time ago that you learned this from Mr. Bliss, was it not? A. It was, I suppose, some seven or eight months ago.

Q. Well, at that time you were seeing Mr. Hyde frequently? A. No, I was not.

Q. Did you know of a contribution by the Equitable Society in 1900 to any——. A. By whom?

Q. By the Equitable Society, in 1900, to any campaign fund? A. In no way.

Q. Was not the matter up in 1896? A. I don't know.

Q. It did not come to your attention? A. I was not a member of the Finance Committee then.

Q. No, but as a member of the board, or connected with the society? A. No, it did not.

Q. Have you heard of any moneys being placed in the hands of any person for use in connection with legislation? A. I did not. I never heard of it.

Q. Now I understand from your statement that all these things might have been done without your knowing anything about it? A. That is perfectly correct.

Q. That you as a member of the Finance Committee would not be in a way to ascertain how the moneys of the society were actually used by the executive officers unless they told you? A. I would not have been, and I want to say again that the executive committee, who consisted of some at least of the executive officers had the primary supervision and anything they did not choose to report to the Finance Committee, the Finance Committee could not have known except if a member of the Finance Committee

*Testimony of Jacob H. Schiff*

who might have wished to know would have set his own accountant upon the books of the society.

Q. Was it ever suggested while you were a member of the Finance Committee that it would be a good thing to have the books of the society audited by independent accountants? A. The society itself has an Accounting Department which has been built up since many years and was supposed to be one of the best in existence, and it would have looked like carrying coals to Newcastle to ask a small accounting firm or expert accountants—and it was supposed that expert accountants were in comparison with the accounting department of the Equitable Society mere pigmies—to audit the accounts of the Equitable Life Assurance Society.

Q. And these various persons who were in the Accounting Department of the Equitable I suppose in effect held their positions at the sufferance of the owner of the stock? A. I suppose they held their positions at the sufferance of the Executive Committee.

Q. And the members of the Executive Committee hold their positions at the sufferance of the owner of the stock? A. I suppose they hold their positions at the sufferance of the Board of Directors.

Q. And that is one remove further, and then we come to the owner of the stock? A. Yes.

Q. I asked you to produce a statement of the sales made by Kuhn, Loeb & Company to the Equitable Life Assurance Society during the time that you were a director of the society. Have you prepared such a statement?

(Paper produced.)

Q. This list is produced and I understand it to be correct? A. It has been made up in our Accounting Department.

*Testimony of Jacob H. Schiff*

MR. HUGHES: I will have it marked for identification.

(The paper was marked Exhibit 218 for identification.)

Q. Now, do I understand that in any of these cases of purchases by the Equitable from your firm you have advised the purchase? A. In not a single case, except as a member of the Finance Committee, when it came before me as a closed transaction. And I want to say here, right off, that when transactions of the Executive Committee were reported to the Finance Committee—they were simply reported as such and such had been done, for instance, a hundred thousand bonds of this character have been bought at such and such a price. The names of the persons from whom these bonds were bought or to whom they were sold was never reported, not until some months ago, until I insisted that it should be done.

Q. Well, you mean that in cases where purchases had been made from Kuhn, Loeb & Company, that they would not be recognized by you when they were read? A. I might or I might not have recognized them, but there was such a lot reported. The modus operandi was this: The members of the Finance Committee met once a month. The secretary then read off the purchases of securities since the last meeting of the committee have been such and such, the sales have been such and such. That is all.

Q. And in all these cases where the report was made the transaction had already been consummated? A. It had.

Q. When these transactions took place between Kuhn, Loeb & Company and the Equitable Life Assurance Society what officer or person on behalf of the Equitable negotiated the matter with Kuhn, Loeb & Company? A. The modus operandi was this: We submitted in most cases an offer of securities to the financial secretary of the society. I suppose in most cases it was in writing, in some cases it may have been verbally, but not in very many

*Testimony of Jacob H. Schiff*

cases. It was sent into the Executive Committee as far as we know, and we were then advised if it was accepted or declined.

Q. Who was the financial secretary? A. Of late years, of late months, I think it was Mr. Winthrop. Before that it was Mr. Squire.

Q. George H. Squire? A. Yes, sir.

Q. Do you remember when it was that Mr. Winthrop succeeded Mr. Squire? A. I think Mr. Winthrop is here and can give you the information.

Q. Mr. Winthrop says in October, 1904. May we assume that to be correct? A. I think so.

Q. Then for many years prior to that Mr. George H. Squire had been financial secretary? A. For several years prior.

Q. And your propositions would go to Mr. Squire? A. That was the case.

Q. Normally? A. Yes, to Mr. Squire.

Q. Then Mr. Squire would refer them to the Executive Committee. Would that mean to the chairman of the Executive Committee normally? A. I have no knowledge of that. As far as my impression goes they went to the Executive Committee. I want to add to that, so to have it fully for your information, before Mr. Squire became the financial secretary, General Louis Fitzgerald had charge of it. He was president, as you are aware, of the Mercantile Trust Company, and he also was, I believe, chairman of the Executive or Finance Committee. It was before the time, I believe, that I was a member of the Finance Committee. The Mercantile Trust Company was then a large factor in the financial matters of the Equitable Society and it was he who negotiated, and it was he, and he acting as far as I can remember. It was a matter of a number of years ago. I believe he had sometimes power to say immediately, "I accept this" or decline it, but it was very exceptional. It generally took a day or

*Testimony of Jacob H. Schiff*

two before we could get a reply, whether our offers were accepted or declined.

Q. Do I understand that while General Fitzgerald was president of the Mercantile Trust Company he was at the same time chairman of the committee of the Equitable Society and in a position to frequently pass definitely upon purchases and sales of securities? A. I don't know in what position he was. I don't know what powers the Executive Committee gave to its chairman, but the fact is that I believe he was president of the Mercantile Trust Company and was chairman of, I don't know whether it was the Executive Committee or the Finance Committee. I think it was the Executive Committee.

Q. He was the man who apparently had charge of negotiations and frequently closed them? A. He had, and if he closed them, I do not want to say—sometimes he closed them.

Q. He was the most active man in the matters pertaining to negotiations of purchases by the Equitable Society for some years. A. That is correct—that is a very considerable number of years ago, as I have already stated. Later on Mr. Squire came in as financial secretary and he had no powers, as I understand it, and then Mr. Winthrop came in and he had no powers, and it had to go to the Executive Committee.

Q. During what period, or for how long a time did General Fitzgerald act in the way you have described? A. Perhaps Mr. Winthrop can tell you.

Q. I am informed that down to the time Mr. James H. Hyde was made chairman of the Executive Committee, General Fitzgerald was chairman of the Executive Committee. That would be about 1902. And that the chairman of the Executive Committee was, by virtue of his office, chairman of the Finance Committee. That would seem to be the fact of the case. A. May I ask Mr. Winthrop to give me the correct date when I became a member of the Finance Committee?

*Testimony of Jacob H. Schiff*

MR. WINTHROP: I will look that up.

Q. Frequently, in matters involving large amounts of money and the disposition of large blocks of securities, the negotiations take a little time, and men have to meet and talk it over, and the matter has to be explained and considered. That is true, is it not? A. I believe that the securities that Kuhn, Loeb & Company offered to the Equitable Society very little had to be explained. They never offered any securities to the Equitable Society which were not very strong, and we had nothing to do except to make our offer and leave the Executive Committee to decide whether for one reason or another they wanted to accept them or not.

Q. And you simply made a proposition which, until three years ago, went to General Fitzgerald? A. Yes.

Q. And in the last three or four years it went to Mr. Squire? A. Yes.

Q. And then the answer would come back? A. Yes.

Q. Mr. Winthrop hands me a statement that Mr. Squire became financial manager in September, 1899, and I understand these transactions with General Fitzgerald continued as long as General Fitzgerald was chairman of the Executive Committee. A. I don't want to say positively.

Q. Well, it is sufficient for our purposes to get a general view of the practice. Now, suppose there was a question of the participation by the Equitable Life Assurance Society in a syndicate of which Kuhn, Loeb & Company were the managers. How was that taken up and disposed of? A. That was offered as a rule—let me see—I believe these offers were also made in writing. I believe a letter was sent to the society, either to General Fitzgerald or Mr. Squire, or very latterly to Mr. Winthrop, stating that Kuhn, Loeb & Company had purchased so and so many bonds; in fact, I am sure it was always done in writing. They

*Testimony of Jacob H. Schiff*

had bought so and so many bonds, that they bought them on such and such conditions; that such would be the terms of the syndicate, and offering the society—offering whoever acted for the society—I suppose it will later come to that, who acted for the society—such and such an amount, subject to his acceptance or rejection.

Q. Then I understand Kuhn, Loeb & Company——. A. But I want to emphasize, as has been brought out before already, that General Fitzgerald—these reports or letters were sent to General Fitzgerald or to Mr. Hyde and associates, or in some instances to Mr.—I suppose to Mr. Winthrop as financial secretary.

Q. Then I understand Kuhn, Loeb & Company would acquire a block of securities and its purpose would be to resell them and make a profit? A. That is correct.

Q. Then Kuhn, Loeb & Company would form a syndicate, the members of which, briefly, would agree to take a certain proportion of the securities that were offered on certain terms or in the event that the securities were disposed of upon the public offering, a certain share of the profits that were made by you, is that practically it? A. Yes, that is correct.

Q. Now, the position of the Equitable Society as a participant would be that of a corporation agreeing to take, if called upon, a certain proportion of the securities, or in the event of their sale, being entitled to receive a certain part of the profits? A. Yes.

Q. According to the agreement? A. Yes, that is correct.

Q. What was the object in allotting to the Equitable Society any interest at all in the syndicate? A. The Equitable Society is in a position, and any other large insurance society, of a large capitalist who wants to get, and properly get, the best return he can on his money, and he wishes to take advantage of the purchase at lowest prices of securities, simply saying to himself, if I get a profit out of it, it is all right, then I have made my profit; if I get any part of the securities—if they are not all sold—

*Testimony of Jacob H. Schiff*

it is good enough for me to hold them. And in the securities in which Kuhn, Loeb & Company formed syndicates, it was always good enough for any large insurance companies to hold them if they were not immediately sold.

Q. But, as a matter of fact, the insurance companies generally had to take them when they were sold in the market, did they not? A. I don't fully understand what you mean by that question.

Q. I have noticed in some of the letters that have been put in evidence, letters addressed by Kuhn, Loeb & Company, relating to syndicate participations—the words, “The bonds to remain syndicated under our control.” A. Yes.

Q. Now, what do they mean? A. That means that Kuhn, Loeb & Company have charge of the sale of the bonds during the existence of the syndicate.

Q. Well, that implies, I take it, that the insurance company, as a member of the syndicate, is not to withdraw its bonds, but to permit them to be sold. A. Only by special permission.

Q. Yes. That is, it is not to withdraw its bonds against your wish. A. That is correct.

Q. So that Kuhn, Loeb & Company being engaged in floating a set of securities of the character that you have described, which were marketable, and which it would be desirable to hold, held the option to sell them in the market. A. That is correct.

Q. And except with its consent the insurance company would not be able to invest in those bonds except they bought them on the public offering. A. That is correct.

Q. And your syndicate being successful syndicates so far as the syndicate participation was concerned, the Equitable would get a share of the profits? A. That is correct.

Q. And so far as its investment in bonds was concerned, it would have to buy the bonds in the market? A. That is correct.



*Testimony of Jacob H. Schiff*

But I want to add that the market means from the syndicate managers.

Q. Of course, I am glad you added that, because I should have made it clear myself, because what I said was ambiguous—from the syndicate managers. A. Yes.

Q. And when they buy, the insurance company buys from the syndicate managers, it furnishes a part of the profits represented in the proceeds of sales that is distributable among all the members of the syndicate. A. You may state it that way, but it simply stands upon the footing of any other purchaser.

Q. Of course, any purchaser who can buy a large amount of securities from the syndicate managers helps to swell the fund in which the syndicate members participate. A. Yes.

Q. And, of course, the life insurance companies, as a rule, are not the smallest of the purchasers? A. Yes, but not the largest, either.

Q. And not the largest, but pretty good purchasers. A. Yes.

Q. I have asked you to furnish a statement of the participations in syndicates under your control, I mean under Kuhn, Loeb & Company's control, of those who were executive officers or members of the Finance Committee of the Equitable Life, have you furnished that?

(Papers produced.)

Q. Before I take up this list which has been furnished me, let me ask you another question with regard to the practice which obtains in connection with these syndicate offerings. If Kuhn, Loeb & Company have purchased a block of securities and are forming a syndicate, you make the allotments, don't you? A. We do.

Q. How do you make the allotments, do you notify a man that he is in? A. As suits Kuhn, Loeb & Company best.

*Testimony of Jacob H. Schiff*

Q. Do you decide upon that? A. In some cases in consultation with my partners, yes.

Q. Do you request people to come in? A. No.

Q. You tell them that they can have it? A. Some are reduced to small amounts, some get such an amount. We simply notify them how much has been allotted them.

Q. You notify them of how much you permit them to take? A. Yes.

Q. You don't have to go around begging them to become members of the syndicate, do you? A. Indeed not.

Q. They are only too glad to get the opportunity? A. That is correct.

Q. It is a pretty good thing to be let in, is it not? A. Good thing—Kuhn, Loeb & Company syndicates generally have paid.

Q. Yes, I mean they are good things to be let into? (Witness smiles.)

Q. Now, I find under October, 1895, the Union Pacific reorganization syndicate, an allotment to Louis Fitzgerald of \$1,500,000. Apparently that is a personal allotment. Do you remember anything about that case? A. I do not. That was 10 years ago.

Q. Yes. In directing your attention to it now, does anything come to you which would explain why the allotment of that amount was made to General Fitzgerald and not to the Equitable? A. General Fitzgerald was chairman of the reorganization committee of the Union Pacific Railroad, and it is very likely that he said that he was in touch with other members of the Committee. He was in touch with Kuhn, Loeb & Company who were the bankers of the Committee, and, it is very likely that he said, "If you will allot these to me I will give it to such interests as I may deem entitled to it."

Q. At that time did you as a director of the Society look into the question whether it was an advisable thing for the society itself to take that allotment or any portion of it? A. Mr.

*Testimony of Jacob H. Schiff*

Hughes, I do not pretend to attempt to recollect what happened ten years ago. As it happens, every day or perhaps every hour, many things pass through my head. You multiply that by ten years and you can imagine that I can not remember, and it might do great injustice even if I believed that I could remember, it might do great injustice if I placed it upon the record.

Q. I find that in October, 1895, a participation of \$1,500,000 having been given to Louis Fitzgerald in the Union Pacific reorganization syndicate, the next month, November, 1895, a participation of \$500,000 was given to the Equitable Life Assurance Society in the Union Pacific first 4's syndicate, and then in November, 1896, a participation was given to the Equitable Life directly in the New York City 3½'s syndicate of \$1,000,000, and then in January, 1897, a participation was given to Louis Fitzgerald of \$3,900,000 in the Union Pacific purchase money syndicate, and again in June, 1897, a participation was given to Louis Fitzgerald of \$1,025,000 in the Union Pacific stock syndicate, and in July, 1897, a direct participation was given to the Equitable Life in Chicago & Northwest 3½ per cent. syndicate of \$1,250,000. Those facts stated from the papers, from the papers that have been produced by your firm, do they recall to your mind any reason why in some cases there was an allotment to General Fitzgerald and in other cases an allotment to the Equitable? A. They recall the fact to my mind that probably General Fitzgerald directed that it should be done that way.

Q. Was it in such cases a participation so far as you can recall that Kuhn, Loeb & Company would have been willing to give the Equitable Society itself if they had asked for it or if General Fitzgerald had not requested it the other way? A. In most instances the amount was much larger than Kuhn, Loeb & Company would have been willing to allot to the Equitable, and it was given to General Fitzgerald because Kuhn, Loeb & Company must have known—and I only speak from recollection, they must have known it covered divers interests.

*Testimony of Jacob H. Schiff*

Q. What would govern you, if I may ask, in determining what amount ought to be allotted to the Equitable, whether it should be a million dollars or a million and a half, assuming of course that you believed the syndicate would be successful?

A. To some extent the size would be entire amount of the syndicate; for instance, naturally, we would feel that the Equitable would be entitled to a much larger amount in a forty million, fifty million or one hundred million dollar syndicate than it would be in a ten million, fifteen million or twenty million dollar syndicate.

Q. Do you mean how much, Kuhn, Loeb & Company could properly let the Equitable have and permit other allotments to be made to those whom you desired to bring in? A. In the first instance, it depends upon the size of the entire amount of the negotiation. In the second instance, and of late years, it has been to some extent decided by the fact that our circle of friends has enlarged. As time goes on, the circle of friends grows larger, and we had to be guided by that.

Q. So there will be enough to go around, not to give anyone in the circle any more than his fair share. A. Not his fair share, not more than we think him entitled to.

Q. Well, of course, you think him entitled to his fair share, I suppose. In other words, you divide it up equitably so that all your circle of friends will have participations? A. Nobody participates in a syndicate by any right; whoever participates, participates by the good will of Kuhn, Loeb & Company.

Q. By the good will of Kuhn, Loeb & Company? A. Yes.

Q. Now, having determined, for example, in making such a division, that there would be allottable to General Fitzgerald's company, you might say a million dollars, what would guide you in giving that to him rather than in saying that it went to the company and the company got all the advantage of it? A. As I have stated before, General Fitzgerald, as far as General Fitz-

*Testimony of Jacob H. Schiff*

gerald was concerned, was President of the Mercantile Trust Company and the Mercantile Trust Company in former years—I do not think it is now so any more—was a financial factor in the Equitable Trust Company——

Q. In the Equitable Trust Company? A. Financial factor in certain circles of the Equitable Life Assurance Society, and General Fitzgerald knew how much the different interests which he represented, the Mercantile Trust Company, the Equitable Life Assurance Society and some other interests, were entitled to and it was left to him to divide it.

Q. Now, if General Fitzgerald was allotted by you, say, a million dollar participation in a syndicate, did it ever occur to you as director of the Equitable Life Assurance Society to see that the Equitable Life Assurance Society got the profits which would naturally be expected from the successful operation of the syndicate? A. I had the fullest faith in the fair dealings of General Fitzgerald. You might as well ask me in case I take out insurance and pay my premiums, whether I didn't see that the premiums after I had paid it actually reached those to whom it should properly go.

Q. Well, I think that is a pertinent question. A. I don't think it is. If I paid my premium to the cashier of the Equitable it is ended.

Q. Of course, in this particular matter I was thinking of your position as a director and allotting to General Fitzgerald a participation out of which he individually could make some money, when, I take it, you would have been very willing to have allotted that to the Equitable itself if he had requested it? A. Very possibly and very probably the Equitable would never have received the amount which General Fitzgerald received because it was said to us by General Fitzgerald that he represented a number of interests and that he would see there was a proper application and that each interest would get its proper proportion, and

*Testimony of Jacob H. Schiff*

as chairman of the Finance Committee—not of the Executive Committee of the Equitable Life Society, he was charged with knowing what would be the proper proportion of the society.

Q. So you confided entirely in his fairness in the division? A. Entirely.

Q. And made no further inquiries regarding it? A. No.

Q. Did General Fitzgerald ever report to you how he divided these participations that were allotted to him? A. I cannot recall that.

Q. You don't remember. Well, I suppose that General Fitzgerald represented a number of the corporations which were within the circle of friends which you have spoken of? A. Affiliated with the Equitable.

Q. Yes, and a number of corporations besides seem to have participated, which were within your circle of friends? A. I suppose that is a proper statement.

Q. But you left it entirely to General Fitzgerald to determine what should be done, and you did not endeavor to assure yourselves that these various corporations had received part of the allotment in any way? A. I cannot recall the circumstances, which were all, I suppose, prior to the year 1900.

Q. Now, the circle of friends and clients that you spoke of, which is constantly widening, are those who would under ordinary circumstances buy securities from Kuhn, Loeb & Company, would they not? A. I cannot say that exactly. Various considerations enter into that.

Q. Well, it being a pecuniary matter, their considerations are a pecuniary advantage, are they not? A. There are conditions of business expediency.

Q. Yes. It may be a question of a purchase, or a question of some other advantage in the way of business? A. I should say that primarily—I do not want to go further. I do not think it is necessary for me to say anything else than that there are ques-

*Testimony of Jacob H. Schiff*

tions of business expediency. I suppose it can be left to the firm of Kuhn, Loeb & Company to determine the business of Kuhn, Loeb & Company.

Q. When the allotment was made to General Fitzgerald all the correspondence was with him, I suppose? A. With General Fitzgerald, as far as I can recollect.

Q. That would be the routine of business? A. Unless he directed it to be done otherwise.

MR. HUGHES: I will note upon the record the following syndicates as they appear from the list that has been produced of participations in syndicates managed by Kuhn, Loeb & Company.

October, 1895, Union Pacific Reorganization syndicate, Louis Fitzgerald, \$1,500,000.

November 15, 1895, Union Pacific First 4's syndicate, Equitable Life, \$500,000.

November 11, 1896, New York City 3½ syndicate, Equitable Life, \$1,000,000. Mercantile Trust Company, \$500,000.

January 26, 1897, Union Pacific Purchase Money syndicate, Louis Fitzgerald, \$3,900,000.

February, 1897, St. Louis, Iron Mountain & Southern, Mercantile Trust Company, \$1,500,000.

May 14, 1897, Illinois Central 3½ per cent. syndicate, Mercantile Trust Co., \$600,000.

June 22, 1897, Union Pacific Stock Assessment syndicate, Louis Fitzgerald, \$1,025,000.

July 9, 1897, Chicago & Northwestern 3½ syndicate, Equitable Life, \$1,250,000.

October 28, 1897, Union Pacific Additional Purchase Money syndicate, Louis Fitzgerald, \$750,000.

*Testimony of Jacob H. Schiff*

February 11, 1898, Union Pacific First Mortgage bonds, Louis Fitzgerald, \$2,200,000.

March 9, 1898, Union Pacific Auxiliary Line Syndicate, Louis Fitzgerald, \$1,700,000.

June 21, 1898, B. & O. Reorganization, Mercantile Trust Co., \$14,700,000.

October 4, 1898, Baltimore & Ohio, Pittsburg Junction Equitable Life, \$500,000.

November 23 1898, Baltimore & Ohio Loan Syndicate, Mercantile Trust Co., \$500,000.

December 15, 1898, Baltimore & Ohio, Southwestern Underwriting Syndicate, Mercantile Trust Co., \$600,000.

February 3, 1899, Manhattan Railway stock underwriting, Mercantile Trust Co., \$9,000,000; George H. Squire, \$40,000.

March, 1899, Chicago & Alton, Louis Fitzgerald, \$1,000,000; George H. Squire, \$50,000.

March 22, 1899, St. Louis, Iron Mountain & Southern 4's syndicate, Louis Fitzgerald, \$1,200,000; George H. Squire, \$50,000.

MR. HUGHES: Where I mention the Manhattan Railway stock underwriting syndicate, Mercantile Trust Co., \$9,000,000 and George H. Squire, \$40,000, put opposite that, please——.

THE WITNESS: Perhaps I can help you with that. I want to say as far as this \$9,000,000 is concerned, as far as I recollect, I don't think the Equitable had anything to do with that. I think these \$9,000,000 allotted to General Fitzgerald was a stock syndicate for special interests, for Mr. Gould's interest, whom he represented, George Gould's interest, and it was so distinctly understood, and it had nothing to do with the Equitable.

Q. The Equitable had nothing to do with it? A. I don't think so.

Q. Did they buy any of the securities? A. No, it was an



*Testimony of Jacob H. Schiff*

underwriting of stock. It was a matter of the stockholders of the company.

Q. MR. HUGHES: Then I will not make any statement regarding that. Now, the next I mentioned, March, 1899, Chicago & Alton, Louis Fitzgerald, \$1,000,000; George H. Squire, \$50,000. Do I understand that the Equitable bought any securities there?

MR. HANAUER: They got the securities which they subscribed for.

Q. Now, in this Chicago & Alton, what profits did Louis Fitzgerald and George H. Squire get respectively? Mr. Hanauer has made a statement which, if you are willing to adopt as your answer, he will make upon the record? A. Yes, sir.

MR. HANAUER: In this syndicate the participants paid 97 per cent. in cash, for each \$1,000 paid they received \$10 cash, which was mostly an adjustment of interest; \$375 in Chicago & Alton 3 per cent. bond certificates, \$500 in Chicago & Alton 3½ per cent. bonds, \$300 in Chicago & Alton Preferred stock and \$350 in Chicago & Alton common stock.

MR. HUGHES: The next one is March, 1899, St. Louis, Iron Mountain & Southern 4's syndicate, Louis Fitzgerald, \$1,200,000; profit, \$36,381.07. George H. Squire, \$50,000; profit, \$1,515.88.

February 1, 1900, Baltimore & Ohio first 4's bond syndicate, Louis Fitzgerald, \$150,000; do., \$150,000.

That is two participations of the same amount. Profits, \$6,007.72.

*Testimony of Jacob H. Schiff*

George H. Squire participation, \$50,000; profits, \$1,001.29.

February 1, 1900, Western Union Telegraph Company 4½ bond syndicate, Louis Fitzgerald, \$2,000,000. Withdrew bonds.

George H. Squire, \$75,000; profits, \$2,875.84.

March 22, 1900, New York City 3½ bond syndicate, Equitable Life, \$1,000,000; profit, \$5,400.92. Morton Trust Co., \$500,000; profit, \$2,700.46.

April 10, 1900, Third Avenue Railroad 4 per cent. syndicate, Louis Fitzgerald, \$2,000,000. Received and retained bonds, \$1,200,000. Received profit, \$34,925.49. G. H. Squire, \$50,000 participation, received and retained bonds, \$30,000. Received profit, \$873.14. Marcellus Hartley, \$150,000 participation, received and retained bonds of \$90,000; received profits, \$2,619.41.

June 25, 1900, New York City 3½ bond syndicate, Equitable Life, \$500,000; profits, \$3,009.15.

January 29, 1901, Pennsylvania Co. 3½ Guaranty certificate Equitable Life, \$500,000 profit, \$10,107.80. Mercantile Trust Co., \$200,000; profits, \$4,043.11. George H. Squire, \$100,000; profits, \$2,021.56.

Baltimore & Ohio 4 per cent. Convertible bonds syndicate, Equitable Life, \$400,000; profit, \$4,268.44. Mercantile Trust Co., \$250,000; profits, \$2,667.78. George H. Squire, \$50,000; profit, \$533.56.

February 7, 1901, Railroad Securities Co., stock interest certificates, Equitable Life, \$500,000; profits, \$17,500. Mercantile Trust Co., \$200,000; profits, \$7,000. George H. Squire, \$50,000; profit, \$1,750.

February 19, 1901, Union Pacific Convertible bonds syndicate, Mercantile Trust Co., \$5,000,000; received as profits and interest, \$164,020.

April 3, 1901, Rio Grande Western Railway Co. 4 per cent, bonds syndicate, Equitable Life, \$250,000; profit, 7,931.80. Louis Fitzgerald, \$100,000; profit, \$3,172.72. J. W. Alexander,

*Testimony of Jacob H. Schiff*

\$75,000; profit, \$2,379.54. George H. Squire, \$75,000; profit, \$2,779.54. Mercantile Trust Co., \$200,000; profit, \$6,345.44.

April 18, 1901, Chicago & Northwestern Divisional 3½ bond syndicate, Equitable Life, \$400,000; received and retained bonds, \$277,000; received profits, \$2,391.64. George H. Squire, \$75,000; received certain bonds not mentioned; profit, \$448.43. Mercantile Trust Co., \$200,000; received certain bonds not mentioned; profit, \$1,195.82. J. W. Alexander, \$75,000; received bonds not mentioned; profits, \$448.40.

October 8, 1901, Mexican National Readjustment syndicate, Equitable Life, \$500,000; profit and interest, \$20,821.57. Mercantile Trust Co., \$100,000; profit and interest, \$4,164.32.

October 15, 1901, Pennsylvania Co. 3½ Guaranty Gold bond syndicate, Equitable Life, \$750,000; profit, \$14,742.86. Mercantile Trust, \$250,000; profits, \$4,914.29. General Louis Fitzgerald, \$100,000; profit, \$1,965.71. George H. Squire, \$100,000; profit, \$1,965.71. George H. Squire and associates, \$150,000; profits, \$4,914.29.

November 7, 1901, Western Union Telegraph Co., 4½ bonds, General Louis Fitzgerald, \$600,000; bonds withdrawn.

October 29, 1901, Baltimore & Ohio, Pittsburg, Lake Erie & Western 4 per cent. syndicate, Mercantile Trust Co., \$200,000; profits, \$4,433.56. Also a further participation of \$500,000; profit of \$1,183.89. Louis Fitzgerald and associates, \$250,000; profit, \$5,541.94. George H. Squire, \$150,000; profits, \$3,325.17.

February 18, 1902, Metropolitan Security Co. syndicate, James H. Hyde and associates, \$1,000,000; profits, \$25,000.

June 10, 1902, Metropolitan Street Railway 4 per cent. bond syndicate, James H. Hyde and associates, \$1,000,000. No call of money, and there was no call of money in the Metropolitan Securities syndicate just read. Profits, \$30,210.38.

July 17, 1902, Oregon Short Line, 4's and participating bond syndicate, James H. Hyde and associates, \$1,500,000. No call.

*Testimony of Jacob H. Schiff*

Profits, \$39,995. George H. Squire, \$100,000; no call. Profits, \$2,666.35.

May 22, 1903, Pennsylvania Railroad shares syndicate, James H. Hyde and associates, \$4,000,000. No call. Profits, \$62,-595.99. W. H. McIntyre, \$100,000; profits, \$1,564,990. No call on either.

July 14, 1903, Union Pacific 5 per cent. note syndicate, Equitable Life Assurance Society, \$350,000; kept the bonds and got a profit besides of \$2,625.

October 30, 1905, Baltimore & Ohio Bond syndicate, James H. Hyde, \$400,000; profits, \$5,964.47.

October 28, 1903, Philadelphia, Baltimore & Washington, Long Island Railroad Co. bond syndicate James H. Hyde and associates, \$500,000; ditto, \$100,000; total, \$600,000; profits, \$14,316.66.

May 19, 1904, Imperial Japanese Government First 6's, James H. Hyde and associates, £400,000; profit, \$25,635.41, there having been no call.

May 6, 1904, Imperial Japanese Government First 6's, James H. Hyde and associates, £400,000; profits, \$23,434. Pittsburg & St. Louis 4 per cent. bond syndicate, James H. Hyde and associates, \$500,000; profit, \$10,261.46. George H. Squire, \$100,000; profits, \$2,052.29.

October 28, 1904, Oregon Short Line Refunding 4 per cent. bond syndicate, James H. Hyde and associates, \$1,250,000; profit, \$25,047.46. George H. Squire, \$50,000; profit, \$1,001.90.

November 9, 1904, Imperial Japanese 6's, second series, James H. Hyde and associates, 400,000 pounds, no call, profit \$62,815.13.

November 21, 1904, Pennsylvania Co. Guaranteed 3½ Trust Certificates, James H. Hyde and associates, \$1,000,000, no call, profit \$15,300.28.

December 8, 1904, Missouri Pacific 4's syndicate, James H. Hyde and associates, \$300,000, no call, profits \$17,077.14.

*Testimony of Jacob H. Schiff*

February 3, 1905, Southern Pacific First Refunding Bond syndicate, James H. Hyde and associates, \$2,000,000, no call, profits \$49,687.49.

March 23, 1905, Imperial Japanese 4½ syndicate, first series, Equitable Life, 800,000 pounds, no call, profit \$100,616.20.

March 29, 1905, Pennsylvania Railroad 3½ per cent. Convertible Bond syndicate, Equitable Life, \$3,000,000. Still open.

Q. Those I have read from the list furnished by Kuhn, Loeb & Company. Now I find in several cases a reference to the allotment to George H. Squire being out of K. L. & Company's share. What does that mean? A. That is a special favor to Mr. Squire, who asked us for it. We gave him participations out of our own allotment, so that wouldn't fall on anybody else's share. After the allotment had been made we had allotted to ourselves so and so much, when Mr. Squire came and asked, "Can't I have a small participation in that?" We gave him in a number of instances a little of our share.

Q. Well, what was the object of that? A. The object of that was that Mr. Squire asked us for it. He had sons who were in the brokerage business, I think he once stated to us that he wanted to have something for them.

Q. Simply a favor to him? A. We gave it no attention.

Q. You let him have it? A. He asked us just as you would come and say you would like to have a small participation in some business and if it wasn't a menace to us we would not hesitate.

Q. Well, would you expect me to buy any bonds? A. I don't think I would.

Q. You didn't expect Mr. Squire to buy any bonds? A. I don't think we did. I don't think we did.

Q. He didn't take any bonds from the syndicate managers in those cases? A. I don't think he did. He may have in one or two instances, I don't remember.

*Testimony of Jacob H. Schiff*

Q. My attention is called to the fact that you had Mr. Squire on your list before he became financial manager of the Equitable?

A. He was an old friend.

Q. Well, giving a participation to an individual who does not buy and is not expected to buy bonds from the syndicate managers is really an act of friendship? A. It is or business expediency.

Q. For which he ought to be duly grateful and appreciative?

A. You must ask Mr. Squire about that.

Q. I understand that Kuhn, Loeb & Company, in addition to being syndicate managers, also had allotments themselves? A. They had.

Q. They kept what share they thought they should keep and divided among their friends such shares as they thought their friends should have? A. That is correct.

Q. According to business expediency? A. That is correct.

Q. Kuhn, Loeb & Company retained substantial amounts in each participation? A. That is correct.

Q. And get their shares of the profits just as the other members of the syndicates get their share? A. That is correct. The underlying principle being Kuhn, Loeb & Company form syndicates for any business which is larger than they want to keep entirely for themselves. As you will find in most instances these syndicates cover very large amounts, especially in later years. I don't know whether it shows on that. Where there are only a few millions concerned there generally is no syndicate formed, and what goes beyond the amounts Kuhn, Loeb & Company think it expedient to keep themselves they divide in participations.

Q. Well, now I find, for example, that in the syndicates that have been formed by you that are on this list from May, 1904, down to the present time, there has been no call? A. There has been no call.

Q. The members have not had to put up any money at all?

*Testimony of Jacob H. Schiff*

A. Simply because the bonds were sold out before they were delivered in most instances.

Q. Well, the expectation was when you took up these securities that you could put them on the market satisfactorily, that they were good securities that could be marketed to advantage? A. In every case.

Q. In every case. That is really a matter of pride with you, is it not, Mr. Schiff? A. That is correct.

Q. And that being so, Kuhn, Loeb & Company could easily have kept the whole amount if they wanted to? A. But it would not have been business prudence. Kuhn, Loeb & Company are conservative bankers. Something may happen in one night in the world, Kuhn, Loeb & Company would like to survive; when they take associates the expectation is like when you take a lawsuit you expect that you will win it, and you may lose it anyhow.

Q. That is very true. But the expectation in the matter is that if it is a successful flotation and nothing unusual occurs that there will be no call and that there will be a substantial profit to divide? A. In many instances, but not as a rule. Sometimes securities, and mostly securities bought, are delivered immediately before they can be put on the market and in such instances the securities are divided among the participants, they pay for them, and they are called back from them as they are sold.

Q. Now, how are Kuhn, Loeb & Company paid for their services as syndicate managers, on what basis? A. Kuhn, Loeb & Company, with very few exceptions, generally charge one per cent. compensation for the risks they take, and the risk is considerable. They buy the securities outright without having any associates. The syndicates are formed after the agreement for the purchase of securities has been made. Kuhn, Loeb & Company assume the risk and the business of marketing these bonds is worth one per cent. to them, and in most instances they charge one per cent.

*Testimony of Jacob H. Schiff*

Q. Is that one per cent. calculating upon the proceeds of the sale? A. Upon the par value of the securities.

Q. Upon the par value of the securities. Upon the par value of the securities sold in the market? or upon the par value—

A. Upon the par value of the entire syndicate purchase; upon the par value of the amount of securities purchased.

Q. By Kuhn, Loeb & Company? A. By Kuhn, Loeb & Company.

Q. Irrespective of what you sell? A. Irrespective entirely of what we sell.

Q. Well, I understand if Kuhn, Loeb & Company buy a block of securities having a par value, say, of fifty million dollars, and a large part of them have to be taken by the members of the syndicate and a very small part is sold, that Kuhn, Loeb & Company's compensation is a fixed percentage upon the fifty million dollars. A. That is correct.

Q. Well, now in the last syndicate, Pennsylvania convertible bond syndicate, if I recall correctly, the compensation was to be a half per cent. on the purchase and a half per cent. on the sale? A. Yes.

Q. Well, what does that mean, a half per cent. on the sale? A. In some single instances where the margin of profit is small, so as not to make the price to the syndicate too large above the first price, the one per cent. compensation is divided, or in other words, the effect is that if the bonds are not all sold one-half of the commission, of the compensation, is rebated to the syndicate participants upon such amounts as have not been marketed.

Q. Then the one per cent. on the sale means one-half per cent. on the par of the bonds that are sold? A. One-half per cent. on the par of the bonds that are sold, or express it better, a rebate of one-half per cent. on the bonds which are not sold.

Q. Well, I think the agreement says half per cent. on the



*Testimony of Jacob H. Schiff*

purchase and half on the sale? A. Yes, but that is the meaning and that is the effect of it.

Q. If, for example, you market, as syndicate managers, ten million of bonds you will get half per cent. on the par value of that ten millions? A. Yes.

Q. What you have said with regard to the allotments to Mr. Squire covers the whole period of time that he has received allotments and explains all these? A. It does.

Q. And the same is true of the allotments to Hyde? A. It is not.

Q. What is the distinction? A. Mr. Hyde received his allotments at the distinct request of the society that they should be made to Mr. Hyde for himself and interests affiliated with the society. It was the interests of Mr. Hyde and associates. I don't think Mr. Hyde individually ever received any participation, the participations were all to James H. Hyde and associates upon written request of the society that they should be so made for the purpose of proper division between the different interests affiliated with the Equitable Society. I believe we have the original letter here, if you should like to see it.

Q. Is this the communication which you refer to? A. It is.

Q. Which you regarded as an official communication from the society? A. It is signed by James H. Hyde, vice-president, and written on the paper of the Equitable Life Assurance Society.

MR. HUGHES: I will offer it in evidence.

THE WITNESS: I will give you a certified copy of it.

MR. HUGHES: Well, I will mark that.

(Marked Exhibit 219 and read by Mr. Hughes.)

*Testimony of Jacob H. Schiff*

MR. ROGERS: What is the date of that letter, Mr. Hughes?

MR. HUGHES: February 17, 1902.

BY MR. HUGHES:

Q. Are you familiar with Mr. Hyde's handwriting? A. I know that is his signature.

Q. And are the words "Vice-President" there written in his handwriting also? A. I think it is his handwriting; yes, sir.

BY MR. HUGHES:

Q. Were you a director in the Mercantile Trust Company? A. I am not.

Q. Or in the Western National Bank? A. I am not. The Western National Bank is out of existence. I was not a director in the Western National Bank.

Q. Yes, but at this time? A. No, sir.

Q. Or in the International Banking Company? A. No, sir.

Q. Or in its successor, the Equitable Trust Company? A. I am not.

Q. The Commercial Trust Company of Philadelphia? A. I am not.

Q. Or in the Franklin National Bank of Philadelphia? A. I was for a short time; I am not now; but I was for a short time a member of the Board of the Franklin National Bank.

BY MR. COX:

Q. Mr. Schiff, this letter seems to be dated here 1901, and then a blue pencil having been drawn through that date and afterwards opposite 1902? A. Yes. 1901, was a slip of the pen; it was in 1902.

*Testimony of Jacob H. Schiff*

Q. Who did that? Who changed it? A. I don't know; I don't know that. We ascertained it was in 1902; it was in the memorandum, I suppose, in pencil, is it not, the change?

Q. It is? A. The letter was sent on that date, 1902, we ascertained from our books; it was received on that date, in 1902.

Q. Then that memorandum was put on in your office, that 1902? A. I don't know; I don't know who put it on. I only know that the proper date of the letter is 1902.

BY MR. ROGERS:

Q. Mr. Schiff, I observe that in this letter Mr. Hyde states at the beginning that pursuant to a conversation with a member of your firm, and after consultation with my associates, indicating a personal consultation, and then at the close of the letter after reciting who shall be considered as participating, he adds, "and such personalities as I and my associates may designate." A. Yes.

Q. Can you state to whom he referred by the words "and my associates"? A. I cannot.

Q. Did you understand those words to be synonymous with the list of corporations? A. That is my understanding; that is my supposition.

Q. Isn't it a fairer interpretation of the letter to assume that it referred to individuals outside of the corporations? A. No, it is not. I have not finished my answer to your question in which you referred to a reference to "after my conversation with Mr. Kahn" I believe, was it not? He is a partner of Kuhn, Loeb & Company. I have asked Mr. Kahn what passed at that conversation and he has stated that at that conversation Mr. Hyde said that he wanted to have better supervision as vice-president of the Equitable Life, as to the proportions the interests were

*Testimony of Jacob H. Schiff*

properly entitled to, and he preferred that he as vice-president of the Equitable Life should say how much should be allotted to each interest, than to have them allotted direct.

BY MR. HUGHES:

Q. I asked you whether you were a director in these institutions and you said you were not. Are members of your firm, or is any of one of them, a director in the Mercantile Trust Company? A. Mr. Mortimer Schiff is a director in the Mercantile Trust Company for the past two or three years.

Q. And is any one of your firm a director in the Western National Bank, or was he when it was in existence? A. I am not certain, but I believe Mr. Kahn was for a short while a director.

Q. Is any member of your firm a director in the National Bank of Commerce? A. I am a director in the National Bank of Commerce and Mr. Kahn is a director.

Q. And in the International Banking Company? A. No.

Q. Is any member of your firm a director of the Equitable Trust Company? A. Mr. Kahn is a director of the Equitable Trust Company.

Q. And the Commercial Trust Company of Philadelphia? A. No.

Q. The Franklin National Bank? A. Mr. Paul M. Warburg is a director.

Q. Now, can you explain how it was that an official letter of this sort, signed by James H. Hyde, vice-president, came to be written on this subject? A. Mr. Hyde had conversation with Mr. Kahn, to which he refers, and in which, as I understand from Mr. Kahn, he stated that hereafter he would prefer that we made no allotments to single interests, but made allotments in this manner, and to which Mr. Kahn answered if that is to be

*Testimony of Jacob H. Schiff*

done we want to have the official request of the Equitable Life Assurance Society, and that letter was sent to us.

Q. Is it proper to say that you did not think that this request of Mr. Hyde's could be assented to unless the Equitable Society officially requested it? A. I think if Mr. Hyde, who was vice-president, or is vice-president, of the Equitable Life Assurance Society makes such a request, such a written request on the official letterhead of the Equitable Society signed by him as vice-president, it would be sufficient to any banking house; it should be sufficient.

Q. You thought that Mr. Hyde had authority to dispose of the allotments which properly would have gone to the Equitable Society? A. I want to say that allotments made to Mr. Hyde were for larger amounts than would have gone to the Equitable Society. All these interests, as a rule, prior to this took syndicate participations from us, and at the request of Mr. Hyde they were put in one amount and he was expected to divide it, properly divide it.

BY MR. ROGERS:

Q. In what capacity would he do that, as vice-president or as an individual? A. As vice-president.

Q. He, as vice-president, was expected to divide it? A. Yes.

BY MR. HUGHES:

Q. Well, you hardly mean, Mr. Schiff, that Mr. Hyde, as vice-president of the Equitable, would give an allotment, for example, to himself? A. It would not be right.

Q. No, consequently, if Mr. Hyde individually was embraced in the James H. Hyde and associates he would hardly be deemed to be acting within his duty as vice-president in taking a share in that allotment? A. Perfectly correct.

*Testimony of Jacob H. Schiff*

Q. You didn't understand that he was going to take a share himself, did you? A. We did not.

Q. Was it ever explained to you that he was taking a share himself? A. Never. We heard nothing of that until these disclosures were made.

Q. Now, for example, we notice in this letter not only certain companies mentioned, but such personalities as I and my associates may designate. What did you understand that to mean? A. Well, there are quite a number of personalities who had formerly interests in our syndicates, General Fitzgerald had and other personalities, and we understood that he would look after all these personal interests. He personally never had any syndicate interest with us.

Q. He never had had? A. Not so far as I know.

Q. What is that? A. Not so far as I know.

Q. Prior to this letter, when Mr. Hyde had never received——  
A. He never had any syndicate interests.

Q. At all? A. No, sir.

Q. And you never personally gave Mr. Hyde any personal participation in any syndicate? A. I did not.

Q. And you never supposed he was getting any from the James H. Hyde and associates, as you have said? A. We did not.

Q. Well, did you suppose that Mr. James W. Alexander had any interest? A. I can't answer that question properly. I think if I—Mr. Alexander frequently had syndicate participations, did he not?

MR. HANAUER: Not frequently, but several of them.

THE WITNESS: Several times.

Q. Two of them? A. And I think a fair supposition would be that he might allot a part to Mr. Alexander.

*Testimony of Jacob H. Schiff*

Q. Now, take Mr. McIntyre, W. H. McIntyre, had he ever received a syndicate participation from Kuhn, Loeb & Co., prior to this letter? A. Not that I can remember.

Q. Did you know that James H. Hyde and associates ever covered Mr. McIntyre? A. I did not.

Q. Was it your intention that Mr. McIntyre should get a participation at any time through James H. Hyde and associates? A. Well, that is a question of conscience. I gave it no thought.

Q. It wasn't brought to your attention in any way, certainly, if you gave it no thought. That wasn't your purpose. A. We learned of the manner in which these were divided only by the present disclosures.

MR. ROGERS: Mr. Hughes, whenever you are ready.

MR. HUGHES: If it is agreeable to the committee I will ask to continue the examination for a little time.

THE CHAIRMAN: The committee will continue for a time.

Q. Now, we have the Frick report in evidence here, and it is unnecessary to go over with you in detail the transfers that are there set forth. The point that I want particularly to understand is this, were these various individual participations obtained through division of the allotment to James H. Hyde and associates within your knowledge? A. They were not.

Q. You never heard of any of them? A. We assumed that he would divide them right.

Q. Take for example the Philadelphia, Baltimore and Washington and Long Island Railroad Refunding 4's. There there was an allotment of \$500,000 according to your list to James H. Hyde and associates and another allotment of \$100,000 to James H. Hyde and associates. It turns out that the Equitable Society

*Testimony of Jacob H. Schiff*

only got \$100,000, that none of the other corporations mentioned in Mr. Hyde's letter received any participation, but that the residue was divided between four individuals. Now, did you or any member of Kuhn, Loeb & Co. have any knowledge of that? A. No, sir.

Q. Was the \$600,000 allotment to James H. Hyde and associates intended to go to the Equitable in any part? A. Part was intended to go to the Equitable.

Q. Well, what part would you have allotted to the Equitable if you had done it yourself? A. That particular syndicate was not a large syndicate, \$10,000,000, and was very much sought after. The participations were comparatively small; they had to go to a great many people and the amount itself was not very large, and I cannot say now what the Equitable would have received, but it is certainly not correct that none of the other interests mentioned in Mr. Hyde's letter received any except the Equitable \$100,000.

Q. Now, in the cases which were mentioned in the Frick report it appeared that the Equitable had bought bonds from the syndicate managers, I believe. Is that the case in all these syndicates that have been mentioned here in which certain individuals participated? A. I cannot say; that is a large question. But you can be furnished with a statement.

Q. Before I leave this James H. Hyde and associates, how did James H. Hyde and associates bind themselves when they entered into a syndicate? How did they become subscribers? A. We sent a letter to Mr. Hyde, addressed to him, "James H. Hyde and associates," and I assume he replied. In fact, I am certain of it—he replied just the same as anybody else replied accepting or declining participation.

Q. Then it was by James H. Hyde and associates? A. James H. Hyde and associates.

Q. You said accepting or declining. Did he ever decline?



*Testimony of Jacob H. Schiff*

A. I don't know ; he may have in a single instance. No instance occurs to my knowledge that he has.

Q. As a rule, these syndicate offerings are not declined, are they, by your friends? A. Very exceptionally.

Q. Very exceptionally, unless there was some good reason for such a declination it would hardly be regarded as a gracious return for the favor shown, would it? A. Unless there was some very special reason they would not be declined.

Q. There is another syndicate regarding which I desire to ask you, and that is the Union Pacific preferred stock syndicate. You know the matter to which I refer? Have you the syndicate agreement or a copy of it? A. Mr. Hughes, I want to say here, if you will permit me, I will make a statement as to the Union Pacific preferred syndicate to you in my own way. I believe you will get fuller information and better information than by questions and answers, and at the end if you wish to ask me anything you can ask it.

Q. I should be very glad to have you make your statement. A. Now, as to this Union Pacific Preferred syndicate, there has been very considerable discussion, unjust discussion, and unjust insinuations. I have said in my testimony before the Superintendent of Insurance, when he said Kuhn, Loeb & Co. sold \$2,500,000, or some such amount of Union Pacific preferred stock to the Equitable Life that that was a false record, that Kuhn, Loeb & Co. never had sold any kind of stock to the Equitable Life, and I stand by what I have said in that testimony. The Union Pacific Preferred stock syndicate was not formed by Kuhn, Loeb & Co. at all. They never sold any Union Pacific preferred stock to anybody. The Union Pacific preferred stock syndicate was formed by Mr. E. H. Harriman for the purpose of getting a concentrated holding of Union Pacific stock, a concentrated conservative holding, and for that reason the preferred stock was chosen and not the common stock. There

*Testimony of Jacob H. Schiff*

is no secret in that. We have never had the original syndicate letter or the original syndicate paper. We were simply asked to act as clearing house to purchase the stock at the New York Stock Exchange, and to furnish it to the subscribers in that syndicate at exact cost. We never have made any profit out of this syndicate. That syndicate was for \$50,000,000, of which nearly the entire amount has been acquired, and amongst the names furnished to us as participants in such syndicate was the name of Mr. James H. Hyde individually for two and a half millions, and I have never known until the disclosures of the Frick Committee that the Equitable Life had any share in that syndicate. It is true that at several meetings of the Finance Committee it was brought up that Union Pacific preferred stock had been bought, but nothing else was brought up; it was not brought up that it was bought in a syndicate; it was simply read off with a list of securities which had been acquired, and I stand by it that I voted for the purchase of Union Pacific preferred stock. There is no better investment in this wide world. The Union Pacific Company earned last year \$22,000,000 over and above all its charges and out of that it had to pay a dividend of \$4,000,000 on its preferred stock. Every life insurance company may buy that stock, and it cannot get a better security. That is all there is about it. Since it has been disclosed that the Equitable Life Insurance Company holds this stock it has been asked to divest itself of it. Mr. Paul Morton, its new president, has been repeatedly asked by the managers of the syndicate, to resell that stock to them and he has declined. Probably he must assume that it is a good enough thing to hold or that it is a good enough thing to hold for a profit. He must, for it is worth more. He can get to-day, and the Equitable Life could have got any day, or Mr. Hyde, in which they were in the syndicate their cost and interest for their holding of preferred stock. It is not the Equitable Life which I consider in this matter. Even if

*Testimony of Jacob H. Schiff*

I had known that this stock of the Equitable Life was held in syndicate I am not certain that I would have voted against it. Union Pacific preferred stock as a permanent investment in a holding syndicate is a good thing to hold, and I don't know, possibly some other advantages might have accrued to the Equitable Life because it held that stock. That preferred stock is an excellent investment in a holding syndicate, and as a director I think I should have voted that it should hold it because it would have been to its advantage. But I did not know it. And in fact, when the first criticism came up Mr. Paul Morton was asked to sell it at cost and interest and declined, and he has declined to this day. I have here, and Mr. Hanauer will furnish it to you, the first indication that the transfer had been made of Mr. Hyde's interest. Notice came to us from Mr. Paul Morton in July last, and until then no one of our firm knew anything of it. I have to-day to exchange the first word with Mr. Hyde about his interest in this syndicate. He has never spoken to me about it; I have never spoken to him about it, because it was not my affair, it was Mr. Harriman's affair. Why we offered to the Equitable Life to buy it is because we—I don't mean personally—because we, as a syndicate, the syndicate managers did not think that a life insurance company was a desirable associate in such syndicate, in a long syndicate. That is the reason we offered to buy it back, not on account of the Life Insurance company, but on our own account, and I stand by what I say.

Q. Now, what was the purpose of this syndicate? You said it was to concentrate a holding of a large amount of stock. Do you mean by that to maintain through such holding the control of the Union Pacific property? A. Mr. Hughes, with all due deference, I do not think that that is a question for you to ask me.

Q. Well, you used an expression "concentrated holding."

A. Concentrated holding.

*Testimony of Jacob H. Schiff*

Q. And I want to get at the pith of it. A. These interests for their own convenience desired to hold a large amount of Union Pacific preferred stock. Let anybody who wants to draw his own inferences.

Q. Well, have you a copy of the agreement? A. I have. I have no secrets in it. You can have it.

Q. That perhaps would be the most authoritative statement of the purpose of it.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 220.)

THE WITNESS: I would also like to furnish you the copy of the assignment of Mr. Hyde——.

Q. That we already have, and have it in evidence with your correspondence. A. And our answer to it.

Q. Yes, saying that it was subject to consideration by the syndicate. A. And that was only two months ago.

Q. Well, I have perhaps not the last communication, but shortly I will bring that up.

(Exhibit 220 read by Mr. Hughes.)

Q. Now, that I understand was signed by James H. Hyde individually? A. Individually.

Q. Did you have any negotiations, or did any member of your firm have any negotiations with James H. Hyde preliminarily to his signing that agreement? A. I think not.

Q. You said something in your statement about Mr. Harriman having obtained his signature? A. Yes.

Q. You referred to Mr. E. H. Harriman? A. Yes.

*Testimony of Jacob H. Schiff*

Q. He was at the time a director of the Equitable Life Assurance Society? A. I believe so.

Q. And you understand that he obtained Mr. Hyde's signature? A. He did.

Q. And Mr. Hyde agreed under this to take a share of \$2,500,000 of the stock? A. He did.

Q. You have said that the syndicate managers had under consideration—or, at least a letter produced the other day in answer to Mr. Morton's letter advising of the assignment by Mr. Hyde to the society of his share in the syndicate transaction said that the syndicate managers had under consideration the question of the acceptance of that assignment, or rather the recognition of it. Had any decision been reached upon that point? A. Mr. Harri-man is away in China or Japan and we could not meet and decide that.

Q. You have said that you did not regard a life insurance company as a satisfactory party in such a transaction? Why is that? A. Because in any decision they would have to reach it would have to go properly before its directors, and a life insurance company would not be one partner, but probably be—I think there are 49 directors, or 51—there would be 51 partners, and it would not be well to have 51 associates and everybody have to express his opinion about it.

Q. You would prefer to have individuals? A. As far as practicable—as far as practicable, yes.

Q. Now, when Mr. Hyde signed this it was expected that Mr. Hyde would furnish two million and a half of dollars? A. So it was.

Q. And he was regarded as being able to furnish that? A. Perfectly.

Q. As a matter of fact, as the proof here shows, when calls were made from time to time it was the Equitable Life Assurance Society that paid the money? A. I don't know; I am told so.

*Testimony of Jacob H. Schiff*

Q. I am just about to ask you that. We have the checks showing that on each call made by Kuhn, Loeb & Company upon Mr. James H. Hyde the Equitable Life Assurance Society would pay to Kuhn, Loeb & Company the amount called for. Now, did those matters come under your observation? A. Absolutely no. The cashier of Kuhn, Loeb & Company was authorized to take in payment on the delivery of bonds or stocks anybody's check that he considers good.

Q. Then when these payments were made certificates of stock in the name of Kuhn, Loeb & Company, and endorsed in blank, were delivered to officers of the Equitable Life Assurance Society and were held for their securities? A. They were not; they were delivered to the messenger of James H. Hyde.

Q. They were not delivered—— A. If the messenger was an officer of the Equitable Life I don't know; I don't see the messengers, but they were delivered to the messenger of James H. Hyde; all notices were sent to James H. Hyde; the dividends were paid to James H. Hyde, and all receipts were either signed by James H. Hyde or signed for him. In one single instance I find out a receipt was signed by John Gilchrist, who, I understand, is an officer of the Equitable, but they were signed for James H. Hyde, "I confirm," or "We confirm the receipt for James H. Hyde of so and so much money."

Q. The point I am now trying to bring out is this. As a matter of fact, were you cognizant yourself of the deliveries that were made of securities and who got them? A. Absolutely not. I am only——.

Q. It is quite apparent from the facts that have been brought out here, that whatever your knowledge in the matter may have been as to Mr. Hyde, as a matter of fact, that the Equitable bought the stock and the Equitable got the stock. Now, I am asking you, following upon that statement, whether any part of that came to your knowledge? A. It did not.

*Testimony of Jacob H. Schiff*

Q. I call your attention to the fact that the minutes of the meeting of the Committee on Finance, held on February 2, 1903, recites you among others as present at the meeting. Were you present at the meeting? A. If—I am sure that is correct.

Q. The minute is as follows:

“The Committee on Finance met at the rooms of the society Monday, February 2, 1903, at 1 P. M. Present: Messrs. Wheelock, Depew, Schiff, Squire, Snyder, W. H. Baldwin, Jr., Deming, the president, vice-president and secretary of the committee.

“The minutes of the last meeting were read and approved. The purchase of securities to the amount of \$3,835,000, and the sale of securities to the amount of \$2,633,500 was reported and approved as recorded in the security register. Applications for loan on bond and mortgage were presented to the amount of \$431,000, and were approved to the amount of \$417,500, as recorded in the bond and mortgage register. The Committee then adjourned.

“W. H. McIntyre, Secretary.”

I am informed that the transactions which were submitted to that meeting on February 2, 1903, were in this security register, which I now show, and that it was the practice to read at these meetings the entries as they appeared in the security register. In the first place was that the practice? A. That was the practice, yes, sir.

Q. So far as you know, was that practice followed at this particular meeting? A. I must assume, sir.

Q. Now, I find under the list of securities mentioned there the following: 500,000 Union Pacific Holding Syndicate at 100. Was your attention—did you hear that read? A. I did not. I heard nothing read but the amount, the purchase of so and so

*Testimony of Jacob H. Schiff*

many Union Pacific Preferred stock, these things were read off very quick, and unfortunately my hearing is not very strong, sometimes a voice drops at the end of a sentence, but there was nothing read to my knowledge, and to the best of my recollection concerning this holding syndicate.

Q. Of course, you would not say that it was not in fact read, holding syndicate, but merely that you did not hear it read. A. I did not hear it read.

Q. You said before Superintendent Hendricks on the examination last June, where a reference was made to the records, "The records must be false." Now, do you claim that this record is in any way inaccurate itself? A. It is. It is.

Q. In what sense is it inaccurate? A. In the sense that so far as I know—the Equitable Life Assurance Society is not a holder of any Union Pacific preferred stock in a holding syndicate.

Q. Well, the point is not particularly as to your knowledge on the subject, but as to the fact whether the Equitable had acquired \$500,000 Union Pacific Holding Syndicate. Now, you say it had not acquired it? A. I thought so little—it is very natural that I should not have paid attention to those words, holding syndicate, because it was not in my mind that such a thing was possible, and I again call your attention to the assignment—how could this have been legally or even morally binding upon me as one of the syndicate managers, Kuhn, Loeb & Company, when Mr. Hyde did not assign at all his interest until two months ago?

Q. Well, of course it is not necessary to take up what constitutes a legal assignment, for the Equitable having paid the money and taken the certificates probably Mr. Hyde would have been in a very poor position if he had tried to claim the interest as against the Equitable, although he had not executed a formal paper. My point is——. A. Let me say as far as Kuhn, Loeb



*Testimony of Jacob H. Schiff*

& Company are concerned, the Equitable has not paid the money. Mr. Hyde has paid the money.

Q. What you mean is that Kuhn, Loeb & Company did not recognize the transaction——. A. They knew nothing of it.

Q. But do you desire to have your testimony stand without correction that the records of the Equitable Society, apart from what you may have heard, or understood, are false? A. I shall wish to advise with counsel about that.

Q. Yes. A. In my opinion I will add that the record as far as Kuhn, Loeb & Company are concerned and as far as I am concerned, and as my knowledge is concerned, the record is not a correct record.

Q. Of course, the fact that the Equitable paid the money, you have since learned, you know that? A. I have only very recently learned it.

Q. And that is a matter of which we may assume——. A. It was a matter of which I had no knowledge whatsoever.

BY MR. ROGERS:

Q. I do not understand you to say that the statement that you were present that day is incorrect? A. No, of course, that statement is correct. I do not dispute such statement.

Q. And I do not understand you to say that the record of what transpired that day is incorrect, but simply that if it transpired you had not knowledge of it at the time? A. My attention was not called to it.

BY MR. HUGHES:

Q. Now, the next meeting at which this matter was brought up was apparently one of July 6, 1903, of which the minutes produced in the minute book are as follows:

*Testimony of Jacob H. Schiff*

"The Committee met in the rooms of the Society on Monday, July 6, 1903, at 1 P. M. Present: Messrs. Schiff, Squire, Snyder, Deming and the secretary of the Committee.

"The minutes of the last meeting were read and approved. The purchase of securities to the amount of \$2,971,700 and the sale of securities to the amount of \$3,066,500 were reported and were approved as reported in the security register. Applications for loans upon bonds and mortgage were submitted to the amount of \$620,500 and approved to the amount of \$414,500 as recorded in the bond and mortgage register. The Committee then adjourned.

"W. H. McIntyre, Secretary."

Q. You were present at that meeting as stated? A. I was. Mr. Hughes, at this time I will make the same answer that I have made before to any meeting at which my name appears.

Q. Well, I wanted, as it is my duty, to call your attention to the fact that at this meeting as well as at the other meeting in the security register the securities in question are referred to as \$900,000 Union Pacific preferred stock syndicate. Now, I understand, you do not in any way mean to say that you were not present at the meeting, or that this was not read, but you do say you did not hear it. A. I do. My attention was not called to it. And I want to say right here that I don't know whether it is so, but I don't remember that. Mr. Hughes, I want to say right here that I don't remember that any syndicate transactions were, as such, ever brought to the notice of the Finance Committee. I do not remember that when the Equitable went into a syndicate transaction that it was reported other than as a purchase after they had paid for it. If they had paid for it, the securities were read off, and very likely in this instance simply the securities were read off, and nothing said of a holding syndicate.

*Testimony of Jacob H. Schiff*

Q. Well, that would, of course, depend on what was actually read—— A. I have no recollection.

Q. Well, of course, you know sometimes one's recollection is refreshed by reference—— A. Well, my recollection is refreshed to that extent that I know nothing of it.

Q. My attention is called to the fact by counsel that in the testimony before Mr. Hendricks, Superintendent of Insurance, you were asked in one place: "Here is the office voucher for the 9,000 shares." This is the question: "Q. Here is the office voucher for 9,000 shares. 'Purchased of Kuhn, Loeb & Company, Union Pacific preferred holding certificate, 9,000 shares at 100, \$900,000. Paid June 16, 1903,' that is the check of the Equitable Life paid for the purchase of \$900,000 to Kuhn, Loeb & Company for Union Pacific preferred holding certificate. A. I can only say to you that whoever furnished you that record or information of sales of Union Pacific preferred stock, or any other stock to the Equitable Life, has furnished you with a false record." Now, in what particular did you mean to say the record was false? A. That Kuhn, Loeb & Company never sold any Union Pacific preferred stock to the Equitable, and I say so now. Even if the Equitable Life has become a member of this syndicate, Kuhn, Loeb & Company have not sold it any preferred stock.

Q. Now, I must call you attention to certain testimony that was given before Superintendent Hendricks by Mr. James H. Hyde after you had been sworn and examined with reference to these transactions. The testimony is as follows, relating to this Union Pacific syndicate:

"Q. That underwriting was your own personal underwriting? A. No, it was not, as I think I have said in my testimony, after consultation and agreement with Mr. Alexander, who wrote the letter indemnifying me, and the counsel for the society went

*Testimony of Jacob H. Schiff*

over the papers. I have, I think, already said that under oath. I have never had any of the shares in my possession.

BY MR. HENDRICKS:

Q. They still stand in the name of Kuhn, Loeb & Company?

A. I personally never had anything to do with the things; it has all been done on behalf of the Equitable.

Q. They understood that you were the underwriter, I conclude from the fact that they addressed this letter to you personally. A. That is not a correct understanding. I am prepared to swear to that.

Q. In your judgment, Kuhn, Loeb & Company understood that you were acting for the Equitable Society? A. Yes, I am quite prepared to swear to that.

BY MR. DRISCOLL:

Q. Can you state any facts that you say brought that to the knowledge of Kuhn, Loeb & Company, that you were acting for the Equitable? A. I think I can; I would like to refresh my memory on that; it is an important matter and I don't want to make a mistake.

"BY MR. HENDRICKS:

Q. Mr. Schiff says that Kuhn, Loeb & Company never sold a dollar's worth of stock of any kind to the Equitable. A. I beg to differ with him; he sent a member of his firm, and suggested that it should be carried in a different shape, which shows that he knew it belonged to the Equitable. I don't remember just the facts, but I can refresh my memory on it."

Q. Now, referring to that testimony of Mr. Hyde, in which

*Testimony of Jacob H. Schiff*

he says that you sent a member of your firm and suggested that this stock should be carried in a different shape, is that true?

A. Mr. Hughes, it came to my notice some four or six weeks ago, while I was at Bar Harbor—I think in the Evening Post there was a statement that printed books of the testimony had been distributed by Mr. Hendricks, and it said this was part of the testimony. I sent immediately—no, the Evening Post did not say one of the partners, it said Mr. Mortimer Schiff, the son of Mr. Jacob H. Schiff. I immediately telegraphed here to New York—my son is in Europe at present—I immediately telegraphed to New York to cable to my son to find out whether he had—whether that was correct testimony. The reply of my son, which I would be very glad to furnish you in the original, says, when the report last year of the Equitable appeared he found a statement in it that they had so and so much Union Pacific preferred in the syndicate, and he said he immediately went over and saw Mr. McIntyre and told him the same thing that I told in my testimony, that we knew nothing of it, and we recognized in such holdings that Mr. Hyde was the holder, and the Equitable had no interest in it to our knowledge. And Mr. McIntyre said in answer it would be corrected.

Q. Did you ask your son whether he knew that the Equitable had paid the money on the syndicate calls? A. My son is in Europe. How could I have asked him? I simply inquired from him whether that statement was correct. It was on the part of Mr. Hyde simply trying to shield himself. He knew I knew nothing of it. He has yet to-day to speak the first word to me about it. As I have said before, I have never exchanged a word with Mr. Hyde about his holdings in this matter.

Q. Why should he desire to shield himself, from what? A. He wants to say that he has transferred it in the face of our statement, he wants to say that he has transferred it with our knowledge to the Equitable, which is untrue, I say.

*Testimony of Jacob H. Schiff*

Q. Well, your emphasis of that would seem to indicate that you did not regard that as a proper transaction for the Equitable to enter into? A. I repeat what I have said to you before, that if I had known that the Equitable had been asked to take an interest, I mean assuming it, I probably would have objected, because I do not think it is desirable to have a life insurance society as a partner in such a syndicate. But as a director for the time being of the Equitable, I do not deny that I probably would have voted for the Equitable that this would be a proper investment for it.

Q. Well, do you think, as a general principle, that it is a wise thing for an insurance society to invest money in stock which is to be held for the purpose of maintaining the control of a railroad property and which cannot be brought to sale, say, for a period of four or five years? A. Mr. Hughes, I have said to you before that I am not prepared to say that this stock was bought for any other purpose than to have a concentrated holding, and I do not—I do not wish to be understood that I think it is perfectly proper if they can get it, we would not have consented to give it to them—if they can get it for a life insurance company to hold the preferred stock of the Union Pacific, even if it has to hold it for five years.

Q. You think it is proper—I am now asking your judgment as a citizen, entirely apart from any interest in the question—  
A. Yes.

Q. (Continuing) for an insurance company to buy stock in a railroad company where the stock is to be pooled under the control of bankers and persons interested in the railroad company for a period of five years, and in the meantime cannot be sold by the insurance company? A. That is a different—you used the word pool.

Q. I was reading from the agreement when I used it. A. In the agreement these trustees under the agreement had only the

*Testimony of Jacob H. Schiff*

right to hold it. They could not do anything else with it. They could not sell it. It was not a speculation. If you ask me, as a citizen, I say that I have always maintained in the Equitable, and I say it here with all the emphasis that I can give to it, that I think it is a mistake for an insurance company to be permitted to buy common stock, speculative stock of anything, and I have always raised my voice in the Equitable against the practice of buying common stock. But they have gone and done it anyhow. But I think that preferred stock of companies like the Union Pacific, which earned five or six times the amount necessary to pay the dividends on the preferred stock, is a perfectly proper investment.

Q. My object is to direct your attention particularly to that feature of this investment or of such an investment wherein the insurance company is deprived of the right to sell for five years, and the control is placed in the hands of certain bankers and persons interested in the railroad company. Now, do you regard it as a proper thing for an insurance company in the insurance business to put its funds in such a position that it cannot control them and realize, if necessary, upon its securities? A. That is a matter of opinion. In an insurance company that holds assets of four hundred million dollars, and that may get collateral advantages through such a permanent holding, I think I would not be against taking such a holding if I could get at it.

Q. If you look at it in a broad way, Mr. Schiff, as a man of large experience in such matters, would you not see the great danger in allowing the funds of insurance companies to be used for the purpose of maintaining concentrated holdings, as you term it, and maintaining its investments in such a position that it could not dispose of them for a period of years? Is that not fraught with great danger and possibility of abuse? A. Mr. Hughes, you cannot govern large corporations by theory or by picking out isolated instances. I am opposed, and have

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*Testimony of Jacob H. Schiff*

always publicly said so, to insurance companies controlling anything. Insurance companies should simply be permitted to invest their money in securities that do not control anything. The danger to the State is in these large accumulations, and if these large accumulations exercise control, in time of danger it will become very great. But there are instances, single instances, the Equitable Life with such a holding does not control the Union Pacific Railroad.

Q. I was going to call your attention to the reverse of what you said that the danger might lie in some of these accumulations being controlled by others. Now, is it not, frankly, a dangerous thing for the funds of insurance companies to be used so that they can be tied up in securities which individuals may desire to have in a concentrated holding withdrawn from the market for a period of years? A. I do not want to answer in such a general way. If I had to vote on such a thing I would want to know all the details of the transaction as it comes before me.

Q. But as a general principle you would be against it? A. General is dangerous, and I do not want to answer such a question.

Q. You do not want to answer such a question? A. No.

MR. HUGHES: That is all.

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THE WITNESS: Before you adjourn, Mr. Hughes, I would like to make another statement.

Gentlemen, I shall not keep you very long. I have been before the Superintendent of Insurance and have made certain statements. Part of these statements have been published by the Superintendent of Insurance and have been criticized, have been published to my damage and to the damage of my firm. For in-



*Testimony of Jacob H. Schiff*

stance, the Superintendent of Insurance, in face of different testimony before him—and when I say that, I say it without reserve—published to the world that the Equitable Life Assurance Society bought certain Japanese bonds from Kuhn, Loeb & Company, and a short time afterward, or some time afterward, sold them back to Kuhn, Loeb & Company at a loss of  $2\frac{1}{2}$  per cent. It was shown to the Superintendent of Insurance that the bonds were subscribed for by the Equitable Life Assurance Society, they were sterling bonds at the rate of 4.88 to the pound sterling, and that they were sold by them at the rate of \$5.00 to the pound sterling, just  $2\frac{1}{2}$  per cent. Perhaps the Superintendent, who has so closely watched these insurance companies, does not know what the rate of exchange is and he has sent broadcast through the world that Kuhn, Loeb & Company have bought something back a short time after they sold it at  $2\frac{1}{2}$  per cent loss, and it is not true, and he makes the statement in face of the testimony before him that he was incorrect.

Now, I want to state this here publicly, and I want further to state that it has been said that Kuhn, Loeb & Company monopolized the financial business of the Equitable Life. I find that the Equitable Life—I have it from its officers—bought during the past five years \$197,000,000 of securities. Is that correct?

MR. WINTHROP: Yes.

THE WITNESS: Of which Kuhn, Loeb & Company sold it somewhat over \$33,000,000, just one-sixth. Is that monopolizing? I have never asked any favor as a director of the Equitable Life Assurance Society from it. I have granted it many favors. I am not conscious of ever having done as director of the Equitable Life Assurance Society any wrong of commission. I may have done something of omission. It is a case of hindsight and not

*Testimony of Jacob H. Schiff*

of foresight, but my conscience frees me from any wrong. I have been as good a director as I knew how, and I have done my duty. Kuhn, Loeb & Company have sold during the past five years, or been concerned in the marketing of securities to the amount of \$1,360,000,000, and of these they have sold \$33,000,000 or \$34,000,000 to the Equitable Life, does that look like undue influence? Does it look like favoritism? Kuhn, Loeb & Company during the past five years have sold \$42,000,000 of bonds to the Mutual Life Insurance Company, and they have sold \$31,000,000 bonds to the New York Life Insurance Company and they have sold \$33,000,000 bonds to the Equitable Life Assurance Society. Does that look like favoritism? Kuhn, Loeb & Company have sold securities for the past twelve years to the Equitable Life Assurance Society, since the time I am director, which show, compared with the present market rates, profits or advances of \$1,600,000. During the past five years the best securities, like New York Central bonds or Lake Shore bonds, or New York City bonds, or Chicago and Northwestern bonds, have declined from 8 to 12 per cent, and the profit on the market advance on securities which Kuhn, Loeb & Company have sold to the Equitable during the past five years have, in face of that, advanced from \$500,000 to \$600,000.

I thank you, if I have taken up your time.

THE CHAIRMAN: The Committee will now take a recess until three o'clock sharp.

*Testimony of Alfred W. Mayne*

AFTER RECESS.

MR. HUGHES: Mr. Mayne, will you take the stand.

ALFRED W. MAYNE, called as a witness and being duly sworn, testified as follows:

BY MR. HUGHES:

Q. Where do you reside? A. Summit, New Jersey.

Q. What is your occupation? A. Associate Auditor of the Equitable Life.

Q. How long have you been Associate Auditor of the Equitable Life? A. Associate Auditor, or Second Auditor, about the same thing, sir, since 1892.

Q. What are your duties as such Associate Auditor? A. to audit and examine the reports of the managers, cashiers and agents, in the agencies throughout the United States and Canada.

Q. Have you from time to time had occasion to observe the course of Legislation in various States. A. Yes, sir.

Q. In what way? A. First I got in touch with the legislation, from the auditing of bills that came through the account for taxation and became thus somewhat familiar with the laws.

Q. What bills do you refer to? A. To the bills for taxes on the several State Governments, and of licenses of the municipalities.

Q. And did that broaden out so that you observed generally the course of legislation? A. Yes, sir.

Q. And for how long a time has that been so? A. Well, I have been more specially since the last five years.

*Testimony of Alfred W. Mayne*

Q. In the course of that time did you ever happen to meet Andrew Hamilton? A. Yes.

Q. When you did first meet Mr. Hamilton? A. I should say it was about 1900.

Q. How did you meet him? A. The president, Mr. Alexander, called me in his room and presented Judge Hamilton, and stated that Judge Hamilton had been looking over the arrangement they had, after matters of legislation as counsel, appearing before committees personally or by others, and in order to relieve him, he desired that I keep in touch with Judge Hamilton, in the sense that he would report to me with reference to anything special rather than to Mr. Alexander himself.

Q. How frequently did you meet Mr. Hamilton after that time? A. Rather infrequently, because he was on the road a good deal and there was much to report when he did come in.

Q. When you say that he was on the road, do you mean through the country? A. I mean through the country.

Q. Did he from time to time make reports as to what was done with regard to legislation in various states? A. Yes.

Q. He made those reports to you? A. Yes, sir.

Q. What do you recall his saying from time to time with regard to the matter? A. Simply that he had appeared before certain committees and presented the views of insurance companies or had other counsel appear for him and he felt that certain legislation that was shown was not to the interest of the policy holders would not pass or that others would be noticed and the objectionable features would be modified and eliminated.

Q. Then you took up with him from time to time bills that had been proposed in various Legislatures? A. Sometimes I would call his attention to bills to be sure that his attention had been called to them by communicating with his office, not knowing where he was.

Q. Did you get a copy of bills that were introduced in various

*Testimony of Alfred W. Mayne*

State Legislatures affecting insurance matters? A. Sometimes, but the information that we had regularly was the Bulletin published by the Insurance Journal of the proposed bills in the various Legislatures as presented.

Q. Then you would call Mr. Hamilton's attention to these matters? A. At times, yes, sir.

Q. And he was retained by the Equitable Life Assurance Society to protect its business? A. Yes.

Q. From time to time were payments made by the Equitable Society to Mr. Hamilton? A. Yes, sir.

Q. Have you a statement of such payments? A. I think you have that statement yourself, Mr. Hughes.

Q. (handing paper.) Is this a correct statement? A. That is the statement furnished by the cashier to the president of the company, Mr. Morton, on yesterday.

Q. Have you made such an examination of the matter that you are able to state that this is a complete statement? A. No, sir, because I have not examined that statement and simply accepted it as coming from the cashier who was out when I returned, and his lieutenant says it is a complete statement—his assistant.

Q. Did these payments pass under your observation when they were made? A. No, sir, except the last two.

MR. HUGHES: I will have this marked for identification.

(Paper marked Exhibit 221 for identification.)

Q. I find here, under date of February 1, 1895, a payment of \$500. Have you the voucher for that payment? A. I have, sir (producing paper.)

*Testimony of Alfred W. Mayne*

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit 222 and read by Mr. Hughes.)

Q. Were you conversant with that at the time? A. No, sir.

Q. That was before you knew of Mr. Hamilton's relations to these matters? A. Yes, sir.

Q. Was that a check to Mr. Hamilton's order? A. Yes, sir.

Q. Have you it here? A. I have.

Q. This is a check under date of February 1, 1895, signed by M. Murray, cashier, and T. D. Jordan, Comptroller, for \$500 which appears to have been endorsed back to the Society by Mr. Hamilton. Do you know what that means? A. I asked that at noon and they told me that probably they cashed it for Mr. Hamilton.

Q. The next payment I find here is June 7, 1895, \$1,333.33, and you now hand be the voucher? A. Yes.

MR. HUGHES: I offer that in evidence.

(Marked Exhibit 223 and read by Mr. Hughes.)

Q. Have you a check for that? A. Yes.

Q. You show a check dated June 7, 1895, for this amount which appears to have been endorsed and deposited or paid through the New York State National Bank of Albany? A. Yes.

Q. This says the balance for services and disbursements. Apparently prior payments had been made. This had no relation to this \$500 item of Missouri, had it? A. I don't know, sir, but I imagine it did.

Q. It says in re non-forfeiture tax and report. You think it is the same matter? A. I should judge so.

*Testimony of Alfred W. Mayne*

Q. The next payment I find is January 25, 1896, of \$1,000. Have you the voucher for that? A. Yes (producing paper).

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit 224 and read by Mr. Hughes.)

Q. Apparently that was also a balance of services as special counsel, implying earlier payments? A. Apparently from the vouchers.

Q. Have you any record of such earlier payments? A. I have not.

Q. Do you know what services Mr. Hamilton was rendering as special counsel prior to this date for which he was paid? A. I do not.

Q. Well, at this time back in 1896 did you have anything to do with the matters? A. No, sir.

Q. When was it that this first introduction to Mr. Hamilton took place that you have referred to? A. In 1900, I think.

Q. Have you the check for the \$1,000 item? A. I think that memorandum says that that was paid in cash, Mr. Hughes.

Q. Now, the next payment is March 16, 1897, of \$3,000. Have you a voucher for that? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 225 and read by Mr. Hughes.)

Q. How was that paid? A. By a check, sir.

Q. It was paid by a check to his order which you now produce which is endorsed in blank and paid through to the Bank of the State of New York. Who was in touch with Mr. Hamilton prior to the time that you met him, do you know? A. I assume

*Testimony of Alfred W. Mayne*

that it was the Vice-President and then the President, Mr. Alexander, or the Comptroller, I don't know the fact.

Q. Do you know what services are referred to at all? Have you learned? A. I don't know; no, sir.

Q. That was in March, 1891. Now, on June 4, 1897, there was another payment to Mr. Hamilton, was there not, of \$5,000? A. Yes, sir.

MR. HUGHES: You produce a voucher for that which I offer in evidence.

(Marked Exhibit 226 and read by Mr. Hughes.)

Q. How was that paid? A. By check, sir.

Q. By check of that date which is endorsed in blank.

MR. HUGHES: I will offer that check in evidence.

(Marked Exhibit 227 and read by Mr. Hughes.)

Q. Theodore M. Banta is the cashier of the New York Life Insurance Company, is he not? A. Yes, sir.

Q. Was at that time? A. Yes, sir.

Q. Do you know how it happened that this check of Mr. Hamilton's was passed to Mr. Banta as cashier? A. I do not; no, sir.

Q. Have you any information regarding the services at that time? A. No, sir.

Q. Now on June 9th, five days later, there was another payment to Mr. Hamilton, was there not? A. Yes, sir.

Q. Of \$6,183.19. You produce the voucher and I offer it in evidence.

(Marked Exhibit 228 and read by Mr. Hughes.)



*Testimony of Alfred W. Mayne*

Q. I find on the back of this voucher the following memorandum: \$7,305.34; one-third Georgia, \$180.15; one-third West Virginia, \$200; one-half Delaware, \$482, \$1,167.15, balance \$6,138.19. Do you know what that refers to? A. I do not, no, sir; as a matter of fact, no, sir.

Q. What was the check? A. \$6,183.19.

Q. Instead of \$6,138.19, as shown by the memorandum on the back to the voucher, the check seems to be for \$6,183.19? A. That is right, sir. The bill is made out that way and checked as being correct and the check was drawn for the amount of the face of the bill.

MR. HUGHES: I offer the check in evidence.

(Marked Exhibit 229 and read by Mr. Hughes.)

Q. I notice on the back of this voucher the reference to one-third Georgia, one-third West Virginia, one-half Delaware, certain amounts aggregating \$1,167 which are deducted from an amount mentioned, \$7,305.34. Do those references relate to branch offices of the Equitable Life Assurance Society? A. I think not, sir. I think they relate—I don't know as to these bills, sir, up to 1900. I think they relate to payments that the Equitable made and have deducted a proportion in their settlement with Mr. Hamilton.

Q. Well, you refer to the payments the Equitable have made? A. Counsel that were employed independent of Judge Hamilton in those dates.

Q. Which would imply, then, that \$1,167.15 was paid to counsel in those States and the balance was paid to Judge Hamilton? A. Yes.

Q. Did you from time to time audit or look over the accounts of branch offices of the Equitable Life? A. Yes sir; the accounts

*Testimony of Alfred W. Mayne*

of the branch offices in the United States are audited in my department.

Q. Now, was that so prior to 1900? A. Yes, sir.

Q. In looking those over, did you find from time to time payments by branch offices to Mr. Hamilton? A. There were no such payments, sir.

Q. Were there payments to other parties who were charged with looking after legislation in various States? A. No, sir. I don't think there were any prior to 1900.

Q. Now, on October 12, 1897, there was a further payment to Judge Hamilton. Have you a voucher for that? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 230 and read by Mr. Hughes.)

Q. And you have the check corresponding? A. Yes, sir.

Q. Check under the same date which was honored through the National Commercial Bank of Albany, New York, paid by the National Bank of Commerce. That makes a total for 1897 of \$14,516.49. Has the Society any voucher or statement of the disbursements made by Judge Hamilton or the disposition of these moneys other than these general vouchers that you have produced? A. Not that I know of, not that I know of, sir.

Q. Did the Society ever have a report from Judge Hamilton of the disposition of any part of these moneys as expenses? A. I don't know.

Q. None came under your observation? A. No, sir.

Q. Now, in 1897, what matters were there which required particular attention on the part of Mr. Hamilton? A. That I do not recall.

Q. In 1898, under date of February 26th, there was another payment, was there not? A. February 18, 1898?

*Testimony of Alfred W. Mayne*

Q. Yes. A. Yes, sir.

Q. Of \$2,866.

MR. HUGHES: I offer the voucher in evidence.

(Marked Exhibit 231 and read by Mr. Hughes.)

Q. Have you the check accompanying that? You produce check which is paid through the New York State National Bank of Albany, New York, for that amount. These references to retainer and services as counsel—what was Judge Hamilton's retainer, annual retainer? A. I do not know, sir, positively; there was an item in one of the accounts that he submitted of \$2,500.

Q. That item I have just read, is the one you mean, or another one? A. No this was before I knew anything of the accounts. He came up and claimed \$3,500, as I remember, was his arrangement with the president.

Q. When was that? A. 1901 or 1902.

Q. For the year? A. For the year, as I understood.

Q. Now, in 1899, there was a payment under date of April 8 of \$7,666.66, was there not? A. Yes, sir.

Q. Is this the voucher that you now show me? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 232 and read by Mr. Hughes.)

Q. You produce check for that amount paid through the National Commercial Bank of Albany, New York. I call your attention to the \$7,000 referred to as a retainer and services as counsel. Do you know what period that covers? A. I don't, no, sir.

*Testimony of Alfred W. Mayne*

Q. On June 16, 1899, there was another payment, I believe. You show me voucher for \$1,675.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 233 and read by Mr. Hughes.)

Q. In looking over accounts of branch offices in other States—I don't know as that is the proper term in your company "branch offices." A. Agency offices.

Q. Well, agency offices. In looking over the account did you find any entries of any payments which were made on Judge Hamilton's order? A. I haven't looked, but I am satisfied there was something, sir.

Q. On March 8, 1901, there was another payment of \$2,500. You produce the voucher?

MR. HUGHES: I produce the voucher in evidence.

(Marked Exhibit 234 and read by Mr. Hughes.)

Q. Have you the check for that? The check you produce for that amount of that date is paid through the New York State National Bank of Albany. Now, I suppose that during 1900 you were connected with the matter, in 1901? A. Yes.

Q. What other payments were made to Judge Hamilton during 1901 besides these that you have any recollection of? A. None.

Q. Do you recall any particular one? A. That one, \$2,500?

Q. Yes. A. Yes, sir.

Q. Are you positive there were none others? A. As far as I know, yes, sir, and further the cashier's statement that he has gone over carefully and made a full report of all that has been made.

*Testimony of Alfred W. Mayne*

Q. Did you know of any moneys that were received by Judge Hamilton which were paid him in checks of the Equitable Life Assurance Society? A. No, sir.

Q. Do you know of any money——. A. Except this statement just rendered here, and I learn from that that two of those were paid to him in cash.

Q. Do you know of any moneys which were paid him which were drawn from what was known as the J. W. Alexander No. 3 account with the Mercantile Trust Company? A. No, I know nothing of it.

Q. Or the George H. Squire Trustee account? A. No, sir.

Q. Or the Marcellus Hartley account? A. No, sir.

Q. Or of Messrs. Alexander and Jordan? A. No, sir.

Q. As trustee or otherwise? A. No, sir.

Q. On April 28, 1903, there was a payment of 13,000. Have you a voucher for that? A. Yes, sir.

MR. HUGHES: This voucher I offer in evidence.

(Marked Exhibit 235 and read by Mr. Hughes.)

Q. Have you the check for that? A. No, sir; that is marked as having been paid in cash.

Q. That was paid in cash? A. So the cashier's department states.

Q. Now, what was that paid for? In connection with what? A. That was in connection with, I think, some litigation, and in connection with his services for two years as to legislation.

Q. You mean for what two years? A. Nineteen and—what is the date of that, sir?

Q. That is April 28, 1903. A. 1902 and 1903.

Q. Well, it is a payment down to April 28, 1903, I suppose, the date of the payment? A. Yes, sir.

*Testimony of Alfred W. Mayne*

Q. Now, did you have any talk with Judge Hamilton about what his services were in connection with legislation at this time or previously? A. He had probably reported as to certain of the bills that were in the various legislatures as to who should appear and what he thought the conditions were.

Q. What bills, affecting insurance matters, were pending in New York State in 1903 in March or April? A. I do not know, sir. I never had anything to do with New York State.

Q. Well, do you know what matters were pending in other States to which he was giving attention at that time? A. Only generally. I don't recall now.

Q. Well, you had had talks with him from time to time keeping in touch with him? A. Well, there were a number of bills presented, that is to say, as the Attorney-General of Massachusetts stated at the Insurance Commissioners' Convention a day or two ago, for excessive taxation on scientific legislation, and onerous conditions.

Q. Was that so in the Spring of 1903? A. That is so every year.

Q. Perennially? A. Yes, sir.

Q. Well, it was so to a notable extent at that time, was it not, judging from the amount that was paid, \$12,000? A. As I say, I think that bill covers also a matter of litigation that Judge Hamilton had charge of.

Q. Have you any item that shows that or any itemized statement? A. No, sir.

Q. The voucher you have produced is the only one you know of? A. Yes, sir.

Q. Do you know what litigation he was attending to for the Equitable at that time? A. I did not.

Q. Did you ever talk to him about any litigation in which he appeared as counsel? A. No, sir, I did not. I was told

*Testimony of Alfred W. Mayne*

he was employed as counsel, at that time, or about that time, I think it was about that time that that bill came in.

Q. Of course the Equitable Life Assurance Society had its counsel in other States, in every State, I suppose? A. They have their general counsel in New York; I don't know as they have counsel otherwise than as representatives of their New York counsel.

Q. Well, in the matter of retaining counsel to represent them in other States are the general counsel in New York the persons who arrange that for the company? A. I think so.

Q. Usually? A. I haven't charge of that.

Q. Well, Mr. Hamilton was not the general counsel of the Company in New York? A. No, sir.

Q. Now, have any payments been made that have come under your observation since April 28, 1903, to Mr. Hamilton? A. No, sir.

Q. This payment of \$13,333 apparently includes \$1,333 for expenses. Did you have any voucher for those, any itemized statement for those? A. No, sir.

Q. This was not one-third of a total amount of \$40,000 put in his hands? A. This was the bill that he presented. We did not put any money, to my knowledge, in his hands at any time.

Q. Do you know of anyone else giving equivalent amounts about the same time? A. No, sir.

Q. Or any amounts? A. I do not know.

Q. Well, have you information of that? A. What?

Q. Have you information? A. I expected you would get at that and I waited in answering your questions. Judge Hamilton represented not only the Equitable but other companies.

Q. Did he represent any other companies beside the New York Life? A. The New York, the Mutual and the Equitable companies.

Q. And for how long has that been? A. I do not know, sir.

*Testimony of Alfred W. Mayne*

Q. That was so at this time? A. Yes, sir.

Q. Do you know what or did you learn what his arrangements were with other companies? A. No, sir.

Q. Financial arrangements? A. No, sir. Let me add there, Mr. Hughes, that I understand as far as the Mutual is concerned it is similar to the Equitable.

Q. They paid him similar amounts to what the Equitable paid him? A. I understand so.

Q. Did Judge Hamilton have an office in the Equitable? A. Not that I know of.

Q. Well, did he occupy any room and have a desk there? A. Never to my knowledge.

Q. Has the Equitable paid any other person for services similar to these? A. Yes, sir.

Q. Whom? A. The representative of the Mutual Life.

Q. Well, you mean the Equitable has paid moneys to the representative of the Mutual Life? A. Similar to the payment to Judge Hamilton.

Q. Who is that representative? A. Mr. Short has charge of it.

Q. Mr. E. L. Short, the former solicitor? A. Yes, sir.

Q. What amount of money has been paid to Mr. Short by the Equitable? A. I could not tell you now.

Q. How does that go through your hands, those payments, checks to Mr. Short's order? A. Yes, sir.

Q. I should like to have you look up those checks to Mr. Short. During what period has that been the case? A. I do not know. The same position as regards Judge Hamilton; I got into it about 1900.

Q. Well, has that been a matter that had run along for some time during five years—has run along regularly during the last five years until Mr. Short's death, I mean? A. Yes, sir.

Q. Well, have you paid anybody else at the Mutual Life beside



*Testimony of Alfred W. Mayne*

Mr. Short? A. Well, we paid Mr. Short for his assistant at Mr. Short's office.

Q. Who was that? A. Mr. Thummel.

Q. What is his first name? A. W. T., I think it is; I think it is Warren T.

Q. Thummel. Well, what amount has been paid to Mr. Thummel? A. That I can't say offhand.

Q. Well, can you mention any of them? A. I don't think I can, Mr. Hughes.

Q. How has that come under your observation? A. Similar to these of Judge Hamilton.

Q. Well, who instructed you to make the payments to Mr. Short and to Mr. Thummel? A. The payments were made on the authorization of the president or the comptroller. I would report to them as to the matters of legislation as to the States that these people were looking after, for if matters were apparently satisfactory, in the sense that nothing inimicable to the policyholders' interest had passed without some reason for the laws being modified.

Q. Well, have such payments been made in the last year to Mr. Short, or to Mr. Thummel? A. I don't recall whether there has been one within a year.

Q. Well, since the 1st of January, 1904? A. I think so.

Q. When they are made to Mr. Short or Mr. Thummel in what way are they made, by check to their order? A. By check to their order.

Q. Have checks been drawn to Mr. Thummel's order? A. Yes, sir, I should say so. I should have said the same thing as to Judge Hamilton in every one of those cases, but I find upon looking up that the cashier reports they were not.

Q. That in some cases cash was obtained? A. Possibly, I do not know.

*Testimony of Alfred W. Mayne*

Q. Now, Mr. Short, of course, was the general solicitor of the Mutual Life Insurance Company? A. Yes, sir.

Q. As we know. What services did Mr. Short render to the Equitable Life? A. Through his department and his assistants similar to that of Judge Hamilton.

Q. Well, what occasion was there for using the solicitor's department of the Mutual Life if you had Judge Hamilton under retainer? A. It is a pretty large country and the Judge did not cover all the States.

Q. What did Judge Hamilton cover in the way of territory? A. The western part of the country generally.

Q. West of the Mississippi? A. No, west starting with the Ohio.

Q. And who covered the Central States? A. The Mutual Life.

Q. Well, then, did the Mutual Life pay you money for covering the Western part of the country west of the Ohio? A. No, sir.

Q. They looked after that themselves? A. They had a similar arrangement with the New York Life, I take it.

Q. I see. Well, then, the payments that were made to Mr. Thummel were made as an assistant to Mr. Short, is that right, not independently? A. Yes, sir.

Q. Was Mr. Thummel in the solicitor's office or did he have some other office there? A. I think he was associated with Mr. Short.

Q. What legislation did you bring to the attention of Mr. Alexander or Mr. Jordan as requiring the services of either Mr. Hamilton or Mr. Short within the last two or three years so far as you can recollect generally? A. Mr. Alexander or Mr. Jordan employed these gentlemen and I did not call their attention to any special legislation, that is, to Mr. Jordan, I don't think.

Q. I understood you to say a moment ago you would call their attention to some matter which required attention? A. These

*Testimony of Alfred W. Mayne*

employments of these parties were prior to my having anything to do with it, they were employed and I was keeping in touch with the work.

Q. Well, in keeping in touch with the work, just what did you do? I would communicate with them in relation to the bills. I would sometimes—we might have a representative in the territory who might be of assistance, the agent or other party.

Q. Were these amounts that were paid to Mr. Short paid for Mr. Short's services as counsel rendered to the Equitable or paid for Mr. Short's disbursements? A. That I do not know now, sir, because I did not pass the bills.

Q. Do you know the same thing in regard to Mr. Thummel? A. That I don't know now.

Q. Had any payments been made from agency offices to either Mr. Short or Mr. Thummel? A. No, sir.

Q. Have any payments been made to anyone connected with the New York Life except Mr. Hamilton? A. No, sir.

Q. Can you, by refreshing your memory, give me any idea of the payments made to Mr. Thummel in the last couple of years? A. Not offhand here.

Q. What is that? A. Not here. I can look it up for you.

Q. You can look it up and find it. Do you know whether any payments were made to Mr. Thummel from the J. W. Alexander No. 3 account? A. No, sir.

Q. Do you mean there were none, or that you don't know anything about it? A. I don't know anything about those accounts and never did, until I read of it.

Q. You don't know what purpose those accounts were used for? A. I did not know there was such accounts until I read of them.

Q. What sort of vouchers did you get from Mr. Short or Mr. Thummel? A. Vouchers for services.

*Testimony of Alfred W. Mayne*

Q. General vouchers, such as these? A. General vouchers such as these.

Q. No itemized account of what had been done with the money? A. No.

Q. You never had an itemized account from anybody in connection with matters of this class? A. No, sir.

Q. Did anybody else act as agent or representative for any other territory—that is, you have mentioned Judge Hamilton and have mentioned Mr. Short and his assistant Mr. Thummel. Was there anybody else who represented them? A. There were other States which we looked after.

Q. How did you look after those? A. By the employment of counsel.

Q. Do you mean counsel local in the particular State? A. Yes.

Q. What States were those that you looked after directly? A. The State of Massachusetts.

Q. Any other? A. Georgia and California in the last two years. Prior to that I forget which company had it.

Q. And who were your counsel in Massachusetts? A. W. J. Holden represented us in Massachusetts.

Q. And where is he? A. I don't know where he is now.

Q. Where is his office? A. He was in Massachusetts, in Boston.

Q. Practised law in Boston? A. I don't know that he was in Boston, no, sir. He was the Legislative representative. That is, under the Law of Massachusetts the companies are required to have—to file a certificate of who represents them in legislative matters, and Mr. Hamilton had represented the Equitable for a long time back, how long I don't know.

Q. Did he represent any other insurance company that you know of? A. Yes, sir.

Q. Whom did he represent? A. He represented for a time the Mutual and for a time also the New York Life.

*Testimony of Alfred W. Mayne*

Q. Well, do you mean that he does not any longer represent them? A. Yes, sir.

Q. Does he still represent you? A. No, sir.

Q. Who represents you now there? A. We have no representative now.

Q. How long is it since he ceased to represent you? A. I think this is the second year.

Q. In California who represents you? A. Judge Pilsbury.

Q. Where does he practice, San Francisco? A. I don't know, sir, whether he represents other companies, but in representing in that way one company it is agreed that the three companies shall share the expense.

Q. So, if any one of these three companies employ legislative representatives in any State, why, they, as a matter of course, divide the expense with the other two? A. Yes.

Q. How long has that arrangement been in vogue or in operation? A. That I don't know.

Q. Some years? A. Yes, some years.

Q. Who represents you in Georgia? A. Albert Howell.

Q. Where is his office? A. Atlanta.

Q. And under the same sort of an arrangement representing the three with the expense of it divided? A. Yes.

Q. You have vouchers showing the amounts of money that have been paid to these local representatives? A. Yes.

Q. Are those paid from the home office or from the agency offices in the States? A. From the home office.

Q. And they pass under your supervision? A. Yes, sir.

Q. Do you, may I say, audit these amounts that are paid to these various legislative representatives, or have you during the last five years? A. Yes, sir, after the amount has been authorized by the president or comptroller.

Q. Who is it that determines whether the work is worth the

*Testimony of Alfred W. Mayne*

money—whether the money ought to be paid? A. I report as to that to the president or comptroller.

Q. Then you have to be acquainted with the work that has been done? A. Yes, sir.

Q. How do you compute that? A. The report of the men and the knowledge of what is required.

Q. What sort of a report do you have—is it a written report? A. We have some letters, I think, that give—but not a formal regular written report, no, sir.

Q. And do I understand you talk it over with these gentlemen and then state to the officers of the company about what ought to be paid and then they authorize the payment? A. In two of the cases the amount is a salary agreed upon, and in the other it is the amount of the bill that is presented.

Q. In what two cases is there a salary? A. Massachusetts and Georgia.

Q. What is the salary in Massachusetts? A. \$3,000.

Q. And in Georgia? A. \$1,500.

Q. What disbursements are there in addition to the salary? A. None.

Q. The other case where the amount is agreed upon is where? A. There is no other case where the amount is agreed upon that I recollect. The bill is presented at the expiration of the term and for services rendered.

Q. In what case is that? A. That is in California.

Q. According to the service that has been rendered? A. Yes.

Q. In the cases where Mr. Short and Mr. Thummel were interested did you similarly become conversant with what had been done, so as to advise as to the payments that ought to be made? A. Somewhat, yes, sir. They made their statements usually to the president or comptroller also.

Q. Directly? A. Yes.

*Testimony of Alfred W. Mayne*

Q. In your presence? A. I think they have, not with Mr. Short, I think Mr. Thummel has on one occasion.

Q. So that the amount that was to be paid was talked over in your hearing? A. Yes.

Q. Cannot you tell me what amount has been paid to Mr. Short or Mr. Thummel in the last two years approximately? A. I don't know that I can, Mr. Hughes, state the amount.

Q. I do not mean to have it exactly. We can get it later with exactitude, but for our present purpose I would like it approximately? A. I think it varied according to the years as to the amount paid.

Q. Within what limit? A. Within the five years.

Q. I say within what limit of amount? A. I should say about from \$1,000 up to \$6,000. From maybe a thousand dollars one year up to even more than that seven or eight thousand dollars another year.

Q. You can get all those—what year was it seven or eight thousand dollars? A. I don't recollect that.

Q. You mean seven thousand or eight thousand dollars in one year paid to Mr. Short? A. To Mr. Thummel.

Q. Were not the most of the payments made to Mr. Thummel? A. Yes.

Q. Is it not a fact that—were any payments made to Mr. Short himself? A. There are some payments to Mr. Short. What they are for I don't know.

Q. But the payments that you refer to for this class of work were made to Mr. Thummel? A. Yes, sir.

Q. Is Mr. Thummel a lawyer? A. Yes, sir.

Q. And what year was it in which seven thousand or eight thousand dollars were paid to Mr. Thummel? A. Two or three years back, I should say.

Q. Was it in 1903 when this \$13,000 was paid to Mr. Hamil-

*Testimony of Alfred W. Mayne*

ton? A. That I don't—it is a matter of conjecture now—I cannot positively say, sir.

Q. Where were these amounts booked in the Equitable's books, under what heading or in what account? A. In legal expenses, I take it.

Q. Does that account indicate who received the money? A. Yes, sir.

Q. And will show all these payments? A. Yes, sir. I think so.

Q. Who has the custody of that book? A. The cashier keeps the original entries, the auditor has the general charge of the general books.

Q. I would be glad, as you are more familiar with these matters possibly than the cashier would be——. I am right in that, am I not? A. Yes.

Q. He merely did the clerical work of paying out the moneys as the check was cashed or signing the checks in some cases. I would be glad to have you bring down the books which will show the items you have testified to and the other items which you are unable to testify to at the moment, that is the legal expense account covering say the last ten years. A. Will a statement answer your purpose, Mr. Hughes? Because that book is the cash book of the company—a number of cash books running for years, or the journal or ledger.

Q. Well, of course, we can have the original for our examination at any time, as I understand it? A. Yes.

Q. We want to examine the original, but it will be convenient to have an extract of it, because you can have an extract made from several cash books? A. Yes.

Q. Are they not all posted in the ledger? A. Yes.

Q. Under the heading legal expense? A. Yes.

Q. Showing the person to whom it was paid? A. No.



*Testimony of Alfred W. Mayne*

Q. That would only appear in the cash book? A. I don't know whether it would appear from the cash book or the vouchers?

Q. So to make up such a statement you would have to make up a statement from the cash book and vouchers? A. From the ledger, first.

Q. And then go back to the original entries? A. Yes.

Q. And then to the vouchers supporting the original entries? A. Possibly.

Q. I would like to have you get the cash books and vouchers together, together with a statement so we can have an opportunity of verifying it from the original entry, so we can see to whom it was paid? A. Yes.

Q. Do you know how this matter of distribution of territory between the three companies, the New York Life, the Equitable and the Mutual is attended to? A. Yes.

Q. Who does that? A. Mr. Hamilton, Mr. Thummel and myself. We make that up and then I report it to the president or comptroller.

Q. How do make that up, in the form of a schedule of the State? A. Generally each year, going over the various States that each were to look after.

Q. Do you make up a written statement? A. We go over it together and make a memorandum and agree as to which States we will take care of, and, generally appear for the same State for this period.

Q. How recently have you met Mr. Hamilton and Mr. Thummel for that purpose? A. I think it is two years.

Q. Are you working under the arrangement that you made two years ago? A. Yes, sir.

Q. So we may have it entirely clear, I would be glad to have you explain just what division you and Mr. Hamilton and Mr. Thummel agreed upon at that time? A. Generally as I say Mr. Hamilton had the Middle West, and some of the States in the

*Testimony of Alfred W. Mayne*

extreme West. Mr. Thummel more New England States and the Middle States other than New York State, which we had nothing to do with, and each of them some of the Southern States, and we had some of the Southern States. Massachusetts —when I say New England, I should say New England other than Massachusetts. And we took some of the other States.

Q. You say "we"—. A. I mean the Equitable.

Q. The Equitable, yes, but who representing them? A. We had nobody in the capacity of Mr. Thummel traveling for us.

Q. So that this distribution of territory was for what purpose? A. That the representatives of the different companies would not undertake to do the same work, and that we could minimize the expense of one attending to the same thing.

Q. But how was the territory that Mr. Hamilton did not take, and Mr. Thummel did not take, but that the Equitable did take, looked after? A. By the employment of counsel direct, and correspondence, as I have indicated.

Q. What was done in the State of New York? A. I don't know, sir. I never had anything to do with the State of New York.

Q. You never talked with Mr. Hamilton at all about such matters? A. Never, sir.

Q. In relation to the State of New York? A. Never, sir.

Q. Or with Mr. Thummel? A. No.

Q. And you have no idea of how such matters were looked after here? A. No.

Q. Never heard anything of that sort? A. No, sir.

Q. Did the campaign contributions made by the Equitable come under your observation? A. No, sir,

Q. This written schedule of division that you have referred to, have you got that? A. No, sir.

Q. What was done with it? A. I had a memorandum of it

*Testimony of Alfred W. Mayne*

when we first started, but I don't know whether I have now, because it is so well known.

Q. Now, you have been in pretty close touch with the matter. What was so important that required the payment to Judge Hamilton of \$12,000 in 1902 and 1903, what matters were up? A. I don't recollect now just what the matters were, but the bills usually are such as excessive taxation, imposing a heavy tax on the companies.

Q. Where were such matters up in 1902 and 1903 particularly? A. Well——.

Q. In what part of Hamilton's territory? A. Well, I should say in at least half of the States.

Q. Did not you get from Judge Hamilton some definite notion of that? A. Excuse me, I do not catch the question.

Q. Some definite idea of just what he was doing and what these amounts were for and why such large amounts should be needed. A. That covered for two years, Mr. Hughes, first, the session of two years.

Q. That is the session of 1902 and 1903? A. Yes, and I think as I told you, that that covers also for certain litigation that he had.

Q. But that you are not sure of? A. But that I am not sure of.

Q. And, of course, any litigation in these States other than New York would have to be attended to by local counsel. Judge Hamilton could not conduct those litigations? A. I think in some cases Judge Hamilton was counsel and employed counsel also.

Q. Well, you had local counsel. I don't understand that Judge Hamilton is an attorney of any other State than New York, do you? A. I don't know. No, sir; I do not.

Q. So that litigations in other States were of course conducted by local counsel although Judge Hamilton may have had some supervision over it? A. Yes.

*Testimony of Alfred W. Mayne*

Q. And advised in regard to it? A. Yes. I understood that was—he had employed counsel in the case and had paid that counsel and included it in his bill.

Q. Was not that then referred to you? A. Because that does not come under my charge, neither does the fact of these bills, the only thing that I come in connection with is not the amount of the bill, which is an agreement usually with the president or controller, but as to whether there was any objection to their paying the bills at that time, because the work might not be satisfactory—that I knew of—the matter of reduction I knew nothing of.

Q. Does the Mutual Life make payment to Mr. Hamilton? A. I understand so.

Q. Do you know in what amount? A. I do not.

Q. Did you ever find out whether they were paying a bill similar to yours at the time you were paying a bill? A. I don't know as to the time. I think that they do pay similar bills.

Q. So it would be fair to assume that Judge Hamilton in these two sessions got from the Equitable Life and Mutual Life a total of \$24,000? A. Assuming that that all represents that kind of work.

Q. And independent, of course, of what he got from the New York Life? A. Yes.

Q. The New York Life did not contribute at all to you as against these interests? A. No.

Q. Nor did the Mutual. You made your payments to the designated persons except in the cases where you paid the Mutual—that is paid Mr. Thummel? A. Yes, sir.

Q. Now, did you ever hear of Judge Hamilton using any part of his money to any one besides counsel? A. No, sir.

Q. Did you ever talk with him in regard to that? A. No.

Q. Ever hear of any of this money being used to influence legislation anywhere? A. No.

*Testimony of Alfred W. Mayne*

Q. You thought it was all paid for appearances before committees? A. I think so.

Q. Did you have any idea how many times Judge Hamilton appeared before any committee in any State in 1903 during the sessions of 1903? A. I don't know, sir. I know he employed counsel in these various States.

Q. And the same would be true of 1902? A. The same would be true of each of the years.

Q. Did Mr. Thummel appear before committees himself? A. Yes, sir; I understand so.

Q. And in the territory reserved by Mr. Thummel? A. Yes.

Q. Did he employ counsel? A. I understand so; yes, sir.

Q. Did you and Mr. Hamilton and Mr. Thummel ever talk over the necessity of providing funds to influence individual legislators? A. No.

Q. Or providing funds to any person who claimed to be in touch with individual legislators? A. No, sir.

Q. That never came up? A. No.

Q. Never was discussed? A. No.

Q. All this money that you speak of according to your view went to pay counsel fees? A. Yes, sir.

Q. For services rendered in appearances before committees? A. Yes.

Q. And on public hearings? A. Yes.

Q. Did you get any statement from anybody as to the number of hearings that had been attended in that way? A. No.

Q. Never asked for that? A. No.

Q. Or the number of counsel employed? A. No.

Q. Or what they did? A. No.

Q. Did you ever meet Mr. Hamilton in Albany? A. No.

Q. Ever meet any other persons in Albany who had anything to do with legislation in the State of New York? A. No, sir.

*Testimony of Edward I. Devlin*

As I said, Mr. Hughes, I know nothing about New York and I don't think I have been in Albany in fifteen years.

MR. HUGHES: That is all. Mr. Devlin, will you take the stand?

EDWARD I. DEVLIN, called as a witness, being duly sworn, testified as follows:

BY MR. HUGHES:

Q. Mr. Devlin, what is your occupation? A. Superintendent of real estate.

Q. For what company? A. New York Life Insurance Company.

Q. Where do you make your office or have your office? A. Hanover Bank Building, 5 Nassau street.

Q. Are you in charge of all the estate holdings of the New York Life here and abroad? A. No, sir, in the United States and Canada.

Q. Have you the accounts of real estate holdings in foreign countries? A. Yes, sir, we make a record of them and they are sent here, a transcript from the books which are kept in Paris. The foreign buildings are managed from the Paris office.

Q. That is the foreign buildings occupied by the offices reporting to the Paris office? A. The foreign buildings which the company owns are managed I believe through the Paris office just as our American and Montreal buildings are managed from this office.

Q. Have you the account of the amounts expended upon the buildings in Paris on the Boulevard des Italien occupied by the

*Testimony of Edward I. Devlin*

New York Life Insurance Company? A. (Witness produces paper.) Yes, I can give you that.

Q. Have you a statement of it? A. Yes, from 1891.

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit 236).

(Exhibit 236 will be found in the volume of Exhibits).

Q. This states that the actual cost as per statement of Insurance Department 1891 is \$1,102,604.05? A. Yes.

Q. Then it appears to have been reduced by the Insurance Department in 1891 to the sum of \$470,400? A. Yes, sir.

Q. And increased by the seven States examination to \$750,000? A. That is correct.

Q. Now, where can I get the items that enter into the cost of \$1,102,604.05, the initial cost? (No reply.)

Q. When did the New York Life Insurance Company acquire that building? A. That I don't know, Mr. Hughes.

Q. Did they buy a building and improve it? A. That I don't know.

Q. Who would know, that is on this side the water? A. I suppose the vice-presidents, who had been over there and who are familiar with it.

Q. What officer of your company on the present executive force originally had to do with the acquisition of that property? A. That I don't know.

Q. Isn't there anyone? A. I cannot say.

Q. Following upon that item it appears that there was expended in 1898 \$378,884.52. What was that expenditure for? A. Construction account, it appears.

Q. Then in 1899 there was expended \$382,000.48, what was

*Testimony of Edward I. Devlin*

that for? A. That does not correspond with the entry here, Mr. Hughes.

Q. What was that for? A. All that appears there has been copied from these cards.

Q. Nothing appears here but what has been expended? A. In 1899?

Q. Yes, it simply gives the total for construction. A. It was all for construction purposes.

Q. Then in 1900 it is said that there was expended \$431,421.64. What was that for? A. They are all construction items.

Q. Then I understand that starting with \$1,102,604.05 as the cost of the Paris office building in 1891 in the next three years there were expended about \$1,100,000 in addition for construction? A. Yes, sir. The old building was removed and a new building was erected.

Q. So that at the end of 1900 the building stood on the books of the company as having actually cost some \$2,000,000? A. At what date was that?

Q. At the end of 1900? A. Yes, \$1,791,000—

Q. No, \$2,200,000? A. Well, there are items charged off—

Q. I know they are charged off. A. Yes.

Q. And that it was followed in 1901 by a further expense of \$117,609.20 and in 1902 by \$64,711.51, and in 1903 \$38,277.73, and in 1904 \$17,594.92, making a grand total that the New York Life has expended upon that property of \$2,533,104.05? A. Yes.

Q. Now, that property upon which that has been expended is now carried on the books of the company as worth \$1,300,000? A. Yes.

Q. You have charged off in various years against the actual cost of the property, therefore, over \$1,200,000 as lost? A. Not as lost, Mr. Hughes. The value is still there. You know the Insurance Department assumes that the company will earn  $3\frac{1}{2}$  per cent. on its assets, and it has been the constant aim of the presi-



*Testimony of Edward I. Devlin*

dent to charge off our real estate assets to a point where they would make at least as large a return as  $3\frac{1}{2}$  per cent., and in doing that, of course, there is no diminution either in the intrinsic value or market value of the securities.

Q. In other words, the mere fact that you carry it on your books at a certain figure does not prove that it is not worth all its cost? A. Exactly.

Q. But you carry it on your books at the figure you do carry it because that represents the capitalization of its earning capacity on a  $3\frac{1}{2}$  basis? A. Practically so.

Q. What is the income derived from that Paris office building?

A. The income of the Paris office building from 1904 was \$30,-391.66. It was less than usual because the taxes which accrued in 1903 were paid in 1904; in other words, I understand that we paid two years' taxes in 1904 and those taxes amounted to about 43,000 francs, pretty nearly \$9,000.

Q. Annually? A. Yes, sir.

Q. Do I understand that in 1904 you paid in taxes 86,000 francs? A. About that.

Q. You have the item, have you not? A. Yes. It is not on this sheet, but I can give it to you.

Q. Yes. A. Will you find that on your card, Sidney? 119,837 francs 60 centimes.

Q. What was the income in 1903? A. \$45,150.69.

Q. And in 1902? A. \$41,078.82.

Q. You have described that as net income? A. Yes.

Q. What items are charged against the gross income, that is, the aggregate of the items? A. Oh, fire insurance and general operating expenses for heating, lighting and care of the building.

Q. Nothing for construction or improvement? A. I think not.

Q. Those are covered in the items I have read in regard to the cost? A. Yes, I think practically all.

Q. Now, how much of that net income is derived from the com-

*Testimony of Edward I. Devlin*

pany itself or charged to the company itself for the use of portions of the buildings? A. The company has been paying \$30,000 a year rent.

Q. So that last year exclusive of the amount paid by the company the net amount received on the building was about \$9,000, and the year before about \$15,000, and the year before about \$12,000? A. That is allowing for the double payment of taxes I noticed.

Q. Well, that is the fact, whatever is allowed, that is the amount which the company gets from the parts of the property which it does not itself use. Now, I am informed that this building is on a corner of the Boulevard des Italiens and the street adjoining? A. Yes.

Q. I am informed that the company has acquired a plot of ground in the rear of the building, is that so? A. I don't know whether that is an additional purchase or not, It has been used. There is a small plot of ground in the rear which has been used as a printing office for sometime, but I don't know that it is a recent acquisition.

Q. What are the dimensions of the property in Paris? A. That I will have to look up.

Q. How many floors are there in this building? A. Why, there is a book there. I am not familiar with the property, though I think it is six floors or thereabout. (Book handed witness.)

THE WITNESS: The only testimony I am really competent to give in this matter is a transcript of the records as they come to us. I had no part in the management whatever.

Q. You have no direct participation in the management of it? A. None whatever.

Q. But we are availing ourselves of your familiarity with the records to get the facts. A. It seems to be seven stories.

Q. The ground floor is occupied by a café? A. Yes.

Q. The Café Riche, is it not? A. Yes.

*Testimony of Edward I. Devlin*

Q. The property was fitted up for the Café Riche by the New York Life Insurance Company? A. I think their occupancy was intended at the time the building was arranged.

Q. And has a long lease been given to the Café Riche—what is that, a corporation? A. I don't know.

Q. Who are interested in it? A. I don't know.

Q. What are the terms of the lease, what does the Café Riche pay for the ground floor? A. If you are aiming at the interest of any New York Life people in the Café Riche, I think I would have heard something about it. I don't believe the company has a dollar's worth of interest in it.

Q. There is produced here a statement of receipt for the Paris building for 1904, receipts in francs, from which appear, as I understand it, the amounts that are received from the various tenants of the New York Life. A. Yes.

Q. That statement is forwarded to you from the Paris office? A. Yes, sir.

Q. From that I find that the Café Riche paid a total in 1904 of \$144,257 francs, which would be roughly about \$28,000? A. Yes.

Q. That the United States Fidelity & Guarantee Company paid 7,500 francs? A. Yes.

Q. Or, roughly, a little under \$1,500? A. Yes.

Q. Then there is next an item of Bonin, 310 francs. A. Yes.

Q. The next item we have, New York Life Insurance Company offices, European management charged with 122,499 francs; printing office with 6,999 francs; France Provinces, 9,900 francs; Bureau des Ass—

Q. What is that? Assizes? A. Assurance.

Q. (Continuing) 18,000 francs. International Bureau, 3,000 francs. Independent agent, 1,166 francs. I find there the total receipts are 313,233 francs 55 centimes. Now it comes to this, that with the exception of this little item of Bonin, whatever that

*Testimony of Edward I. Devlin*

may mean, the two tenants of the New York Life are the Café Riche and the U. S. Fidelity & Guarantee Company? A. Yes.

Q. Otherwise the New York Life carries the building itself? A. There may be vacancies there, for instance, which I would not be familiar with.

Q. Yes, that is so. A. That may be the explanation.

Q. Have you got an earlier sheet of this character for 1903 or 1902? A. That is the only transcript we have here. I can bring the other transcripts if you wish them. Including what the New York Life pays itself of about \$30,000, its income upon that property on the average for the last thirty years is a trifle over  $1\frac{1}{2}$  per cent. of the amount invested? A. Well, I have the income here, Mr. Hughes, but not figured on the amount invested, figured on the amount which we carried there.

Q. I know, but I was figuring it on the amount invested. The amount invested according to your statement is \$2,533,104.05 and  $1\frac{1}{2}$  per cent. on that would give you about \$37,500, and that is a little under the average income for the last three years? A. Yes, that is a little under the average income for the last three years.

Q. Between  $1\frac{1}{2}$  and  $1\frac{3}{4}$  per cent.? A. Yes, sir.

Q. On the actual money invested. And the average is a little over 3 per cent., from 3 to 3 1-3 per cent. on the amount at which you carry it on the books? A. About  $3\frac{1}{2}$  per cent. Of course, Mr. Hughes, it hardly seems fair to figure there a question of income on a building which you have torn down. The necessities of the company for space were such that they were obliged, as I understand, to tear down the old building. It was no longer adequate for their needs. And there is, of course, the item of the cost of the old building which must then disappear. And there is the further consideration that all of the life insurance companies have for the benefit, no doubt, of their business, erected buildings, especially in places where they had executive offices,

*Testimony of Edward I. Devlin*

as our home office building in New York and the Paris building, which are of a beautiful and of a monumental character, and which are designed, no doubt, to accomplish purposes other than a mere return of a large income.

Q. You mean advertising purposes? A. Advertising purposes. I heard, for instance, on a visit to Montreal, where we have a building, I have been repeatedly told there that a great number of the small policyholders were entirely indifferent as to the amount of securities or the value of the securities which the Government required us to deposit as a reserve against policies, but if you told them, "That is the company who owns the building on Place d'Arme Square," that meets all requirements, and they are entirely satisfied with investment.

Q. That is one of the questions that the commission will have to consider, the very large amounts that insurance companies invest in real estate in excess of the actual requirements of their offices and the returns on the amounts used in that way, and all the considerations you mention must, of course, be taken into account. Do you wish to stop at this point?

THE CHAIRMAN: Yes, if it is a convenient place.

MR. HUGHES: Yes, this is a convenient place.

THE CHAIRMAN: The committee will take an adjournment until next Wednesday morning at 10.30 o'clock.



ALDERMANIC CHAMBER,

CITY HALL, NEW YORK CITY.

October 4, 1905.

Met pursuant to adjournment.

Senator Armstrong in the chair.

MR. McKEEN: Mr. McCall, will you take the stand, please.

JOHN A. McCALL, recalled, testified as follows:

BY MR. McKEEN:

Q. Mr. McCall, when you left the stand there were a great many matters in the line of the examination which Mr. Hughes was pursuing which were unfinished and upon which the purpose is to inquire further, but at the present moment it has suggested itself to the counsel to the Committee that the Committee will be glad to be enlightened by some testimony from yourself on certain general questions pertaining to the life insurance situation in the State and country, and may feel that they can very properly expect that enlightenment from one who has been so intimately connected with the business, both in public offices and in connection with the business, like yourself, and I need not remind you that this Committee is by no means limited in forming its recommendations to the Legislature by the testimony taken upon these hearings. The whole literature of life insur-

*Testimony of John A. McCall*

ance is open to the Committee. At the same time, there are certain points in connection with the subject that they feel it will be wise to bring out at these public hearings. Having in mind those facts I propose to put to you some questions along those lines, and if the questions are not intelligible (because it is very difficult for one not in the business always to grasp properly these more intricate points) I know the answers will be intelligible. In the first place, will you briefly state out of your knowledge the beginning in this country of State supervision of life insurance? A. State supervision had its origin in the State of Massachusetts—State supervision—followed soon after because of a report made to the Comptroller of the State by the Commission selected, of the condition, mainly of fire insurance companies, in New York, as far back as 1849, running on to 1853. There were a number of mutual fire insurance companies doing business in the State, and they were in very bad odor because of failure to pay their claims, and growing out of that a commission was appointed to report to the State the condition of insurance companies generally, and that resulted in the report of 1853. Following that report the Comptroller assumed a greater responsibility and a greater guard over these insurance companies. At that time I may say there were but two life insurance companies in New York State, the Mutual and the New York Life, both mutual companies without capital. Following the Act of 1853 and the Act of 1859 the establishment of an Insurance Department, and New York was second in record in establishing supervision by the State of its insurance companies.

Q. At what period in the State of New York did legislation require what is known as the reserve? A. After the organization of the department in 1859 the English life table was used in connection with the valuation of policies, and later on—I served in the Department first in the year 1870. I was appointed March 1, 1870, and was assigned to work in the actuary depart-



*Testimony of John A. McCall*

ment of the insurance department, and in that year we made the first valuations of policies of New York State companies, and at that time the table of mortality was the American experience table of mortality, and the assumed rate of interest was  $4\frac{1}{2}$  per cent.

Q. Now, many of these questions are elemental in a measure and quite familiar to the members of this committee, and to most people; at the same time we realize that this record may be read by people who look there for enlightenment on somewhat elemental matters. Will you not briefly state what the various tables are that are used by the life insurance companies and explain their compilation in a general way? I don't mean to go back into remote history, of course. A. The tables to-day are based on the combined experience of the English actuaries, with 4 per cent., and the  $4\frac{1}{2}$  per cent. reserve, the American experience table, was the former, during the time of Shepard Homan, and now to-day the rate of earning assumed is 4 per cent., and even still more. The New York Department has adopted for policies after a certain date the assumption that you will earn but  $3\frac{1}{2}$  per cent., so that the table to-day in use is the combined actuaries' table with 4 per cent. interest and the American experience table with 3 per cent. interest, and the law of the State to-day is  $3\frac{1}{2}$  per cent., but in estimating the solvency of a company  $4\frac{1}{2}$  per cent. is still assumed.

Q. In what respect do these tables, both the English actuary tables and the American experience table, differ from what were known as the Northampton and Carlisle tables which are still used in the courts for computing dower value, etc.? A. Yes, and for annuities. The American experience, as its name indicates, is the experience on lives in this country, and the other is entirely English experience, and we found—or they found in their time that there was enough experience in the American companies to formulate a table of their own as to mortality, and the interest

*Testimony of John A. McCall*

assumed dealt entirely with earnings on investments here and not at all on the other side. The annuity table, the Northampton, and the annuity table here, they still retain the English form from the fact that all the decisions practically have been along the lines of the Northampton table on annuities, the American companies not favoring them very much.

Q. One difference is, is it not, that the actuary table and the American experience table are both compiled from selected lives?

A. Oh, absolutely so.

Q. Sound lives? A. Sound lives.

Q. Whereas the Northampton and Carlisle tables were tables made up on the average length of life in the entire section of the country? A. That is right.

Q. Taking both kinds, impaired lives and—— A. Correct.

Q. And the consequence is that there is a greater expectation of life both under the English actuary table and the American experience? A. Yes.

Q. Now, coming down to a matter which agitated the insurance world a good deal—I personally remember the Massachusetts course asked a surrender value. Will you kindly explain who was the author of that legislation and in brief what the theory of it was? A. The first non-forfeiture law was during the administration of Elisha Wright, which was known as the Act of 1861, and, briefly, it provided that after deducting from the value any indebtedness of the company on notes, four-fifths of what remained was considered as a net single premium, and the term for which insurance shall be determined according to the age of the party at the time of the lapse. That act continued to be the non-forfeiture law of Massachusetts for many years. It had its opponents, and the provisions of the act were very widely discussed as being something new, arising from the claims that were made that there should be remuneration to a policyholder if he cared to cease his contract before the term expressed in the contract itself,

*Testimony of John A. McCall*

and the objections then made to that law were along these lines : A non-forfeiture value representing four-fifths of the mathematical reserve is given at the end of the first year under the act, only on acquisition expenses, that is, the procuring of the writ the company has not the means in hand to meet it. The surrender charge which in case of no indebtedness was one-fifth the reserve, in case of indebtedness is only one-fifth of the balance of the reserve. That is an injustice to the man who borrowed no money as against the man who had borrowed, and the privilege given to the company to deduct the premiums at the time of the death was a mathematical error. And arising from the discussion of these several points the act was amended again so that the present law of Massachusetts has been in force, I should think, about twenty years, I should think probably, and antedates the non-forfeiture law of New York.

Q. Well, has not Mr. Wright been generally known as the apostle of the policy that the reserve is the property of the policyholder? A. Yes. He was very radical in his notions in that respect and took the extreme view, I think, that the reserve was absolutely the property of the policyholder.

Q. Is that the view which you entertain? Is that the view that you entertain? A. Is that the view that I maintain?

Q. Yes. A. No, I do not.

Q. Won't you explain wherein you consider the policy to exist in the theory that the reserve is the property of the policyholder? A. I think the charge should be made against the reserve for the purpose of adding against the policyholders a risk that was equally good, assuming the risks would retire, and I think that the reduction that the New York law made from part of the reserve, say, 25 per cent.—the man breaks the contract; the company has no right to break it—and I think there should be a penalty for the breaking of the contract to the extent of a percentage of the reserve.

*Testimony of John A. McCall*

Q. Well, is or is not the notion that the reserve is a fund which will ultimately meet the policy a correct notion? A. Yes, the reserve invested at the assumed rate of interest will pay every claim at maturity

Q. Yes, but it cannot pay an individual claim if a man dies young. A. Not at all. He pays——

Q. Where does the money come from to pay people who die before the reserve amounts to the amount of the claim? A. The money comes from those who persist in paying and the man who profits in the earlier years from the loss—or his family who profit from the loss sustained by his death—it comes out of the contributions made by the members generally.

Q. Will you be kind enough to explain very briefly what the different kinds of premiums are. The natural premium, and so forth? A. Well, the net premium, so called. The net premium in life insurance is that sum of money which, if invested at the assumed rate of interest, as I said, will pay the claims at maturity. Now, on that net premium there is a loading. It is technically called a loading. It is put on there because there is an expense in getting the business, and our average loading in the New York Life is about  $22\frac{1}{2}$  per cent. of the net premium. The net premium in itself is a sum of money that should not be intruded upon or attacked for any purpose except for the payment of claims, but, as a matter of fact, Mr. McKeen, in the very first year of insurance, owing to the expense of procuring the business I do not believe that there is any company that has any amount left out of the first year's premium wherewith to maintain that reserve.

Q. In other words, the reserve under the New York law for the first year of a policy has to be taken out of some other source than premium? A. It has.

Q. Well, from what do you take it in practice? A. Well, practically, of course, it is taken from a surplus.

Q. Well, what is the difference between what is called a natural

*Testimony of John A. McCall*

premium and a level premium, what is meant by level premium?

A. A level premium is the amount of money that is payable every year during the entire contract at the age of entrance, so when a man grows older in the regularly organized company he pays the same premium that he does at the beginning through the term of his insurance. The natural premium has been referred to more in connection with fraternal and assessment companies where the sum of money is really based on mortality and not much on expenses, and is founded more on assessments than anything else.

Q. If a man, say, thirty years old wanted insurance for one year he could get it at a very much lower rate than the premium charged him when taking out a life policy? A. Certainly so.

Q. In other words, the leveling is in adjusting a premium throughout the entire life so that the premium will be uniform? A. Yes.

Q. Now, a great deal has been said about the surplus, and I am coming to that in a little more detail later. I am coming to it more particularly in connection with the New York Life, but will you state generally from what source the surplus comes, how it happens there is a surplus generally? A. Yes. The surplus comes—its first source, if you will, is the gain in mortality from that assumed. That is, you assume a certain mortality and then if your experience shows that that mortality has not been reached, the difference between the two is the first gain in the surplus account. You assume a certain earning rate on your assets, say  $3\frac{1}{2}$  per cent lately and  $4\frac{1}{2}$  before. Any amount earned by the company over the assumed interest rate furnishes a surplus, too. Those two are the main sources of surplus holdings.

Q. Does not some of it come from the fact that the premiums, the level premiums, exceed the natural premiums, or do you disregard that as a source of surplus? A. No, that is disregarded in the estimate.

Q. I would like, if you can do so, if you will kindly explain

*Testimony of John A. McCall*

to this Committee in what particular, or rather in what general respects, the English method of State supervision differs from that in the State of New York? A. Well, practically, there is no supervision whatever in England. They follow out their notions of free trade even into the management of insurance companies. You file a statement with the Board of Trade, it is somewhat elaborate and practically that is about all the supervision that is applied, is the filing of that report open to the public for inspection, and there is really, as a matter of fact,, no supervision whatever in England over its insurance companies, none at all compared with the American system.

Q. Is there no legislative test of solvency in England? A. No, I do not recall that to-day there is any other requirement than that the rate of interest and the tables assumed, that the company shall show correspondingly at the end of the year that they have lived up to the premium charge by these several rates, that is all, that would be shown in the schedules of the reports.

Q. If in England it appears from the statement filed with the Board of Trade, that the company had not in fact a sufficient reserve it becomes a question of judicial inquiry in that particular case? A. Practically so.

Q. But the company may or may not be adjudicated insolvent, as the result, without the application of any ironclad rule of computation? A. That is the situation practically.

Q. You are quite familiar personally with what may be called the crisis of life insurance in this state along from 1876 to 1884. Some of us remember personally your activity in connection with some of those companies. Can you briefly state, because a generation almost has passed since that time, can you briefly state what happened at that time in the life insurance world, more particularly in the New York companies? A. I have written quite extensively on the subject, Mr. McKeen.

Q. I know you have, and I won't ask any extended statement.

*Testimony of John A. McCall*

A. No, I think I can briefly state what you want so as to enable the Committee to see what has occurred in the past in connection with the management of life insurance companies and their defects, if you will. The period you speak of—in 1870—in 1869 and 1870—there were forty-one New York companies and now there are fourteen and there were seventy-one companies of this and other states and now twenty-nine reporting to the New York Insurance Department. In 1876 you will recollect, the financial condition of the country was very bad. These companies had been organized, I was going to say almost hourly, and they were mainly incorporated to give places to people related to men of capital, and it was a very popular thing to organize a life insurance company with all sorts of fads and isms connected with it. They had these small companies and they paid very extravagant salaries. The business was comparatively small. They adopted methods that no sane management would think of having, and they ran along practically without restraint or supervision, if you will, until finally there was a failure and then another. At that time I was the examiner of the Department at Albany, and so all of this that I have described I saw and part of it I examined. It may be said in brief that no life insurance company in the State of New York ever failed because the premium was insufficient. It failed because of extravagant management, it failed because of destruction of values, especially of real estate values, at the time, with inflations here in New York, tremendous inflations of property and the realization on mortgages was very light comparatively. So that in all this period of the winding up of these companies, we were dealing with institutions that had never been managed at all with an eye to the future. It was all dealing with the present, and unskillful, both in the actuarial department and the financial and governmental part of the company. I do not recall a failure of a company—and I think I have said it before—where the claim was attributed to

*Testimony of John A. McCall*

the insufficiency of the premium charge, or for any other reason except absolute incompetency, and sometimes of course there was dishonesty and rascality in the company.

Q. In a general way do you recall about what the shrinkage was in winding up those companies, that is, the amount realized for distribution among creditors as compared with the valuation of their assets just prior to their failure? A. Will you permit me to read?

Q. Certainly? A. This is from an address made in Milwaukee before the National Insurance Convention, the convention of State officials. It was delivered in 1898, and it contains some tables in connection with the very question you asked me. The nine years immediately following the first convention, that is, the first convention of 1871—1870 and 1871—must be accounted the most trying period in the history of American life insurance. The number of companies which ceased doing business in New York was forty-six; only four reinsured in companies that remained solvent; only ten others paid liabilities in full. Receivers' reports are incomplete, but a careful examination of such as are accessible show the total loss to policyholders by failures among American life insurance companies to be about \$35,000,000. The cash liabilities of seven contiguous companies that failed were twenty-four millions of dollars and the dividends paid by the receivers were \$7,589,000, a loss to policyholders of seventeen millions of dollars. Following these companies into their respective domiciles outside the State, following the foreign companies, there were nine in number. Their liabilities were twenty-one millions and the receivers paid dividends on three millions, making a loss to policyholders of eighteen million dollars, a combined loss in sixteen companies of over thirty-five millions of dollars.

Q. In other words, the experience of the State as the result of putting these life insurance companies into receiverships and the result of the causes which compelled it, was that it resulted in



*Testimony of John A. McCall*

very great disaster to policyholders? A. Very great disaster to policyholders and very great scandal throughout the State.

Q. Can you state what peculiar hardship there is if the solvency of a life insurance company where there has been no reinsurance effected, where the loss falls with special hardship? A. Well, the loss, of course, would fall with special hardship to the man whose health was impaired and who could not get insurance anywhere else, and they were the main sufferers, of course.

Q. In other words, the general policy of the courts was to regard all the outstanding policyholders as creditors practically to the amount of their surrender values? A. Practically.

Q. And a man whose health was impaired might really—the surrender value of his policy might be very nearly its face, and yet he would only come in as a creditor and get dividends on a very small proportion of the real value? A. A very, very small proportion.

Q. What legislative remedy is there for that sort of hardship that occurs to you, if any? A. I think the reserve should be used to purchase paid-up insurance in a case of that kind, where there is a deficit in the reserve. It should be used and the company continued and not put in the hands of a receiver.

Q. Is there not a plan in England, in the case of insolvent life insurance companies, of practically scaling down all the claims? A. Yes, that is akin to just what I spoke of, that is, that the amount of insurance in force would be the sum that the reserves would purchase on these lives. That is the actual amount available to purchase this insurance.

Q. And do you think that it would be practicable legislation making that the rule for the winding up of life insurance companies in this State? A. Not only practicable, but while there is no imminent danger of any company doing business, I think it is very desirable that the law should be amended in that respect.

Q. I want to call your attention to a provision in our insurance

*Testimony of John A. McCall*

law, section 89 of the the revision of 1892, the section which is headed Discrimination Prohibited? A. Yes, I am very familiar with it.

Q. It provides—it prohibits—it says in the first sentence, “No life insurance corporation doing business in this State shall make any discrimination in favor of individuals of the same class or of the same expectation of life either in the amount of premium charged or in any return of premium, dividend or other advantages. No agent of any such corporation shall make any contract for insurance or agreement as to such contract other than that which is plainly expressed in the policy issued. No such corporation or agent thereof shall pay or allow or offer to pay or allow as an inducement to any person to insure, any rebate of premiums or any special favor or advantage whatever in the dividends to accrue thereon or any inducement whatever not specified in the policy.” Do you recall the original enactment of that? A. Yes.

Q. Did you have anything personally to do in promoting that legislation? A. I did.

Q. What was the condition of things that led to that enactment? A. Well, great complaints of the extravagance of maintaining the business caused by the giving away of the first year's premiums to the applicant. Large commissions which the agent passed over to the insured, and the company was saddled with a risk that they were not remunerated for. And, as a matter of fact, everywhere I think life insurance in the first year was about presented to the applicant; there were exceptions to the rule as there are to every rule; that was the condition in 1889 when that act was passed.

Q. May I ask if that act has had the effect it was expected to have in preventing rebating? A. I think it has had a very good effect in many ways. It has not been wholly preventative to the evil, but if I may be pardoned for referring to our own case, we have taken very strenuous action in that respect by the adoption

*Testimony of John A. McCall*

of rules and regulations and in connection with our own Nylic system, where the man feels he has something in the end if he continues with the company and he loses that. We not only require him to certify in advance that he has not rebated, but he certifies on his honor that he has not and that is filed with the application and we do all we can to carry that law into effect. I say, and I do not want to be understood as saying that we are absolutely enabled by what we have done to prevent rebating everywhere, but I do say, and I say it with a desire not to be understood as boasting, that we think our own company has done more in relation to preventing rebating—well, at least as much as any other company.

Q. Have you ever discharged any agents for it? A. Quite a number of them.

Q. Do you know whether there has ever been a prosecution under this act? A. There has, and the act held to be constitutional. That is the Formosa case.

Q. Now, your company as well as others practically has a method of increasing the compensation of agents predicated upon the amount of business written? A. Yes.

Q. Now, as an agent approaches that limit is not the temptation almost overwhelming for him to indulge in the practice of rebating? A. That would be so, I think, Mr. McKeen, under a system of remuneration that depended on certain transactions from him, but you must bear in mind that under our Nylic system of remuneration, that a man absolutely agrees with us that he will not rebate, and that if he does rebate he forfeits all his rights to whatever he may have in our possession, and I think that is a restriction. Will you permit me to make a suggestion right there regarding that act, before I forget it?

Q. Certainly. A. It shows how laws may be made up with the best of intentions and yet be failures, made up, if you will, under a commission for codifying the law. Take the very sec-

*Testimony of John A. McCall*

tion you refer to, if you will be kind enough to refer to Section 89 and let me illustrate the evil that comes from amendments to laws without consultation, if you will, and without proper hearing by the governing bodies.

Q. I am sure the Committee are anxious to get suggestions exactly along those laws. A. If you will turn to that section you just read to me, Sections 89 and 91 of the present Insurance Code, were enacted together as the rebate law of New York. In the first, Section 89, it was provided that if a man did certain things, namely, rebating or granting discrimination not provided in the contract itself, then these men should be punished, and how they should be punished was provided in Section 2 of the act, which is now Section 91 of the Code. But, mark you, in between, the people entrusted with the codification of the law at that time sandwiched a section called discrimination against colored persons.

Q. Yes. A. Sort of a nigger in the woodpile, and the result of that was that Section 91, which was intended to punish by the cancellation of the certificate authority of the rebating agent, was made to apply to Section 91 and the preceding Section 90 and not at all to the rebate Section 89, and to-day in the State of New York by reason of that codification there is absolutely no punishment by taking away his life insurance.

Q. Now, Mr. McCall, does it occur to you to make any further suggestions along this line of general legislation as bearing on life insurance conditions that you desire to suggest to the Committee? A. I should like very much to make a brief statement about legislation. It is rather a topic that calls for some comment and criticism, and if you will pardon me, I will briefly state some of the experience of a company in regard to legislation.

Q. Certainly. You may consider a question put asking for that answer. A. Thank you. With the beginning of every year, I daresay it is the feeling of every executive officer, I know

*Testimony of John A. McCall*

it is for myself—that for the ensuing five or six months of the year that we shall be badgered and harassed to death in every State of the Union by the introduction of bad bills of every kind. Sometimes men of honor will feel that they have a right to amend a law, and their motives are all right. But mainly the general insurance legislation of this country, if you will follow it through, emanates from people who are desirous of striking at insurance companies. I might even continue with that further, and say that I believe that three-quarters of the insurance bills introduced in the United States are blackmailing bills. Until, as I have said, that the management of these companies really tremble with the beginning of a year as to what they have to encounter during the following six months of the year. That is a condition that I think your Committee, if you will, Mr. Chairman, can do much to provide against. If it will but pass a law, similar, if you will, to the Massachusetts law, which has been very effective, I think, that every bill introduced shall be lodged or recorded in the office of the Secretary of State—every insurance bill, the introducer mentioned and on the corresponding page the name of the man, either attorney or agent, selected by the corporation to oppose or favor that measure, so that every bill will have its record and every man appearing at a capitol or before a committee will also be recorded on this book of the Secretary of State, and then when the Legislature adjourns, if you will, compel the officers of the companies under oath to state exactly how much they have paid those agents and those attorneys, you will have very much less blackmailing legislation and fewer opportunities for blackmailers to strike at insurance companies.

Q. If I may recur a moment to the subject of rebating, you are aware probably that the question has recently been put to the Attorney General of the State as to whether rebating, the

*Testimony of John A. McCall*

accepting of a rebate by a policyholder has the effect under this law of making the policy invalid? A. Yes.

Q. That question he has not answered because he says he does not care to answer academic questions, but we are not limited, and we are putting a good many academic questions. What would be your opinion as to the wisdom of incorporating that provision in the statute and making a policyholder forfeit his policy if it is proved that he has accepted part of the agent's commission or has got his insurance in violation of this section? A. I would be very heartily in favor of such a law.

Q. Now, I want to ask you some questions about the business that I am informed is quite extensively carried on by the New York Life and to a considerable extent by the Equitable Life, that is what is called sub-standard insurance, what is meant by that? A. A sub-standard risk is one that could not be classed with a risk that had passed a medical examination entirely satisfactory in every respect with the medical examiners. I have some statistics here as to that business——

Q. Well, can you state to what extent—I would like to ask you before you come to that a few preliminary questions which I think will make any statement you have to make perhaps more intelligible. As I understand it you do insure to a considerable extent persons who have been rejected by the Medical Department in the first instance? A. I will put it this way, Mr. McKeen. Persons who have not been approved as first-class risks.

Q. Well, persons who prior to the adoption of this method would not have been—— A. Would not have been insured.

Q. Would not have been insured? A. Yes.

Q. Can you tell, not with exact figures, but approximately, what amount of that kind of business was done by the New York Life Insurance Company in the past year? A. Yes, I can;

*Testimony of John A. McCall*

\$35,000,000 last year. I have the table exactly of what we have issued from the beginning.

Q. Very well, make the statement in your own way. We would like to be enlightened about it. A. The New York Life uses three methods of treating under-average lives. We call them under-average lives. First, under the deferred dividends system, where the impairment is slight, the lives are placed in the special mortality class, in which the dividend will be lower than that in the standard class. Second, where the impairment is more serious, in addition to the above provision for lower dividend——

Q. Excuse me, you mean the dividend will be higher. You said lower. A. Placed in a special mortality class in which the dividend will be lower than the standard.

Q. The dividend, yes. I thought you meant the premium. A. No, the dividend. Second, where the impairment is more serious, in addition to the above provision for lower dividends a lien is placed against the amount of insurance ranging from three hundred to nine hundred dollars a thousand, and reduced each year by the annual premiums paid. Third, the advanced age, or extra premium system is used in countries where we write only the annual dividends form of insurance, the same annual dividend being paid on the sub-standard as on the standard risk, and extra premium is charged to cover the extra mortality. This is not fixed by any arbitrary scheme of advancing the premiums according to the expectations advanced by the Medical Director, but is a matter of precise calculation, based on the extra mortality of lives in each class. That is our system, and here I have the figures showing just exactly what the amounts and the entire business and the ratio is. In 1896 it was begun in that year. We have \$1,540,000 of under-average business against our entire business of \$121,000,000, and the percentage or ratio was one to twenty-five. In 1897 \$2,500,000, against

*Testimony of John A. McCall.*

\$135,000,000 of entire business, a ratio of 1 to 86. In 1896, \$6,500,000, against \$152,000,000, a ratio of 4 to 32. In 1899, \$16,200,000, against \$202,000,000, a ratio of 8 per cent. In 1900 \$20,000,000, against \$232,000,000, a ratio of 9 per cent. In 1901, \$26,000,000, against \$262,000,000, a ratio of 10 per cent. In 1902, \$32,000,000, against \$293,000,000, a ratio of 10.93 per cent. In 1903, \$35,000,000, against \$316,000,000, a ratio of 11 per cent. In 1904, last year, we had \$35,183,900, against our entire business of \$431,295,696, a ratio of 10.62 per cent. We have a record of our mortality experience from the inception of the class, from 1896, to December 31, 1904, the expected deaths are calculated in accordance with the mortality which the policies can bear, for instance, in cases where we expect a mortality of twice the normal, and lien policies were issued to meet that risk or made a lien in calculating the expected death losses of double the company's mortality in standard lives, and the mortality experience from 1896 to 1904, inclusive, has been as follows: We expected death losses of \$5,230,000 and the actual losses were \$4,900,000, a ratio of 95 per cent. of actual deaths against what we expected.

Q. What is the method whereby you decide whether or not you will issue one of these policies on an impaired life? How do you get at it? A. It entirely depends on the Medical Bureau, and I should like very much to have you ask Dr. Rogers of our Medical Bureau as to just what that system is. It is purely——

Q. Well, in a general way you know about it, because you have already shown your familiarity with it? A. Yes, I do know about it.

Q. And at present we are trying to find out what you know about it. We undoubtedly will go further into that at a later stage of the investigation, but the point is, here comes an applicant for a policy in the New York Life, and he is rejected by the ordinary course of medical examination. Now, somebody has



*Testimony of John A. McCall*

to make an exception in his case to decide whether to insure him on the sub-average basis. Who does that? A. The doctor.

Q. Alone? A. The doctor alone.

Q. Well, but he has already rejected him. A. He submits that to the executive officers, and then under the experience gained by the operation of this system a calculation is made of the points wherein he is lacking, and then it is decided what policy we will give him on the sub-standard agreement. That is determined by consultation with the executive officers.

Q. You speak of "as a class," treating these sub-average people as belonging to a class. Is there any table under which there is any computation made? A. Not at all, except from our own experience.

Q. Well, you take each individual case, do you, and determine in that particular case what on the whole you think you can insure that man for? A. Yes, just as the table was made on American experience. We take these sub-standard people on the experience with sub-standard risks.

Q. Have you made any table showing the nature of the physical impairment so that you have got any results from experience as to how long men will live who have got only one lung, or how long men will live who have consumption in the family? A. All the sub-standard risks are classified according to their failings, if you will, according to their meeting certain requirements, and in that way we arrive at what should be done with that particular risk.

Q. How is you have never advertised that you are doing this sort of business? A. Oh, yes.

Q. Have you? A. Oh, very greatly.

Q. Have you solicited applications from people who are impaired? A. Not at all in that way. It would come in the ordinary business. We have not gone out and said to a man with one lung, we would like to try you, but every man feels he is all

*Testimony of John A. McCall*

right himself, and when his deficiency is shown by our examination he is advised: "You have applied for a regular policy; we are not able to give it to you; we can give you one of the sub-standard policies," and that man then reforms his contract by agreeing to take that sub-standard policy.

Q. It is what fire insurance would be called an extraordinary risk? A. What in fire insurance would be called an extraordinary risk.

Q. And on the whole you have made more money out of it relatively than you have out of the old-fashioned method of insurance? A. Yes.

Q. Now, as I have said, we would be glad to have further light on that subject. Do you know whether other companies, if any, are doing that business in New York? A. I think the Equitable Life is doing some now.

Q. Any other? A. I do not recall.

Q. Now, Mr. McCall, I want to call attention to a very much discussed question of deferred dividends, and I suppose I may state that perhaps a larger part of the correspondence that has come to this committee has come from policyholders who object to the deferred dividends matter. Perhaps it may be wise to ask a few questions as to the history of that. The adoption of these different methods, and how that question is immediately applied to the New York Life. There was an agitation which you very well recall, which led to a special legislative investigation, I think in 1882, and the special legislative investigation in Ohio growing out of the combination of what was known as the tontine system. Will you briefly state what the pure tontine policy is? A. Pure tontine is an institution of French origin, having been first proposed by Lorenzo Tonti to Cardinal Mazarin in 1663 and put in operation by Louis XIV. in 1689. The tontine in its original form was made a government loan, in which the premium was never to be repaid, but the entire interest on the loan was to be divided

*Testimony of John A. McCall*

each year among the survivors of the original subscribers. The first tontine which the French Government set up in 1669 ran on to 1726, when the last beneficiary died, a widow, who in the last year of her life enjoyed an income of \$15,000 against her original investment of \$60. Other government tontines succeeded this in France, as well as private enterprises of the same kind, some of which had the vicious feature of the confiscation of the principal on the death of the last survivor, while all of them had an immense lottery element involved in their continuance down to the last life, or a last small group of lives. In addition to these features many of the private tontines were little better than swindles. Notably such was the Tontine La Farge, probably the largest ever organized, which took \$13,000,000 from credulous investors during the years 1737-1792 and failed soon after. Now, that really is the origin of the so-called tontined principle, that French lottery system.

Q. A plan under which a lot of people put money into a fund and the survivor got the whole of it? A. And they bet that they would be the last man to live.

Q. And the last man got the whole of it? A. Yes, sir.

Q. Or the last two? A. Yes.

Q. Now, will you please explain how that system came to be applied to one form of life insurance adopted by the New York Life, and to what extent that principle was applied? A. In the postponement of the division of the profits. Of course, the Equitable, as you know, was the originator of the tontine system. Mr. Hyde was the man who conceived that principle in life insurance, if you will.

Q. In other words, policies were issued for a term of years, might we say ten years, and the people who died before the expiration of the term forfeited everything they had paid in? A. Forfeited everything they paid in. That was the original tontine.

Q. And the result was that if one or two or three of the class

*Testimony of John A. McCall*

who had insured under that plan for the specified term of years survived, then they got as dividends the results of forfeitures and surplus from those who dropped out? A. Absolutely.

Q. So that it held out to a man who went into the tontine system that if he should survive he would get a very handsome return in the form of surplus on his policy? A. Yes, sir; that was practically the working out of the scheme, so I think that the adaption of it and the adoption of it came from Mr. Hyde's knowledge that a new company like the Equitable would have a very hard road to compete with the greater company like the Mutual Life paying annual dividends, and he, having smaller assets, so he conceived the scheme whereby he would not be put to the test of paying dividends in competition with this older company with its larger assets and surplus. That, I have no doubt, from several talks I had with him during his lifetime, was the reason of the adaptation and adoption to of the tontine scheme of life insurance.

Q. Are there any outstanding pure tontine policies now in the New York Life? A. I had a list made up not a great while ago, and I think there are practically none; within a year or two they will all have passed out.

Q. Now, after that came a modification of the plan, which, nevertheless, still embodied the feature of deferred dividends. A. Yes.

Q. Will you kindly explain briefly what that modification was, and bring it down to the present plan of deferred dividend policies? A. The present plan of deferred dividend policies has no more relation, if you will, to the original tontine plan than a whole life policy would have to a term insurance contract, for this reason, that the deferred dividend plan of to-day in any contract guaranteeing the payment of the money provides the most liberal repayments, and—in fact, our own company, if I may speak of it—that after one year's premium has been paid there is absolutely

*Testimony of John A. McCall*

no forfeiture whatever in relation to the contract itself, so that a man with a tontine policy to-day reads right in his contract exactly how much he can borrow on it, how much he can go and obtain as the cash surrender value, if there is no loan provided, and all that he forfeits, if you will. He makes his contract with you that he will pay for twenty years and you make a contract with him that you cannot break, and after that time there will be a certain division of profits. Now he, for some reason or other, desires to stop, and his contract he finds can go to that company after two payments have been made, and get a cash surrender value, paid up insurance, surrendered insurance, and, in fact, he is given much more in the way of compensation for money paid in than any law in the United States provides as surrender value.

Q. Nevertheless, there is an advantage to those who survive the twenty years. They do get something more. There is something deferred, in other words? A. Mr. McKeen, the result of the tontine policies, the maturing tontines, the results show that there is more paid to a tontine policyholder as a dividend, many more times over, than would be paid to him on the annual dividend plan during the same time.

Q. In the attempt to get some light on the practice of ascertaining and paying out dividends under your deferred dividend policies, we have been looking through your reports to the German Government, which, it seems, requires very much fuller returns from the American companies doing business there, more in detail than the requirements of our State law, and we have found certain figures returned by your company to the German Government which I confess I have been unable wholly to understand, and it occurs to me as it is a matter that seems to us in our ignorance, important to put upon the record certain records made from these returns, and then ask from you such explanation as there may be. These figures have been very carefully taken from the

*Testimony of John A. McCall*

papers furnished by your actuary, but, of course, they are subject to correction. I will read them, and then predicate some questions. It appears from the return of the New York Life to the German Government as follows :

THE CHAIRMAN: Of what date?

MR. McKEEN: A series of years. These are taken from a series of returns.

Q. It appears that the company has reported to the German Government the amount of surplus added yearly. You take, for instance, it appears that the policies of the twenty-year plan, 1879 that there were added to the surplus in 1898 \$119,825. The following year, being the expiration period, the dividends were apparently paid out. Now, of the twenty-year policies issued in 1880 the amount added to surplus in 1893 was \$23,013. The amount added to the surplus the next year, 1899, was \$122,195, the next year paid out. Of the policies issued in 1881 in 1898 the amount added to the surplus was \$32,040; in 1899, \$33,274; in 1900, \$258,920; paid out in 1901. Of the 1882 policies there were added to the surplus in 1898, \$59,289; 1899, \$55,905; 1900, \$59,563; 1901, \$565,407; paid out, of course, in 1902. In 1883, in 1898, \$83,919; in 1899, \$82,070; in 1900, \$79,639; in 1901, \$99,159; in 1892, \$835,394; paid out in 1903. In 1898 added to the surplus in 1898, \$61,637; in 1899, \$63,109; in 1900, \$59,322; in 1901, \$73,848; in 1902, \$42,057; in 1903, \$735,635, and paid out in 1904. I will not read all the others, but I have here and will farther on enter upon the minutes the figures as to the fifteen-year tontine, twenty-year accumulations. The point that puzzled us is this: It appears that in all these cases that the returns that you have made to the German Government show that

*Testimony of John A. McCall*

in the year immediately preceding the expiration of the period the amount added to the surplus was enormously in excess of any amount added for any of several preceding years. To repeat and take the crucial instance, the twenty-year Tontines issued in 1884 you added to the surplus in 1901 on those policies \$73,848, in 1902 \$42,057 and in 1903 \$735,635. Now, will you kindly explain how this enormously increased amount of additions to the surplus seems to have been made every time in the year previous to the maturity of the tontine period? A. In a general way I can say that that is the adjustment in the final year of the Tontine from all the groupings has produced to make up the dividend payments of that year. I would myself, Mr. McKeen, be absolutely unable to take up these figures. Mr. Weeks is here and can give you all possible information on that subject. I must say that I could not. I could not take those figures and explain each item because I did not make them up, and I would be absolutely ignorant of what the calculations were that made the various payments for the year.

(The statement above referred to is as follows:)

NEW YORK LIFE PRUSSIAN AND GERMAN REPORTS.

Twenty-Year Tontines.

| Issued    | Surplus Added In. |          |          |          |          |
|-----------|-------------------|----------|----------|----------|----------|
|           | 1898              | 1899     | 1900     | 1901     | 1902     |
| 1879..... | 119,825           | Paid out |          |          |          |
| 1880..... | 23,013            | 122,195  | Paid out |          |          |
| 1881..... | 32,040            | 33,274   | 258,920  | Paid out |          |
| 1882..... | 59,289            | 55,005   | 59,563   | 565,407  | Paid out |
| 1883..... | 83,919            | 82,070   | 79,639   | 99,159   | 835,394  |
| 1884..... | 61,637            | 63,119   | 59,322   | 73,848   | 42,057   |

*Testimony of John A. McCall*

|           |        |        |        |        |        |
|-----------|--------|--------|--------|--------|--------|
| Issued    | 1898   | 1899   | 1900   | 1901   | 1902   |
| 1885..... | 15,901 | 15,524 | 15,284 | 18,213 | 10,326 |
| 1886..... | 815    | 771    | 764    | 826    | 522    |

1903 1904  
Paid out

|           |         |          |
|-----------|---------|----------|
| 1884..... | 735,635 | Paid out |
| 1885..... | 9,292   | 178,942  |
| 1886..... | 412     | 756      |

Fifteen-Year Tontines.

|           |         |          |          |          |      |
|-----------|---------|----------|----------|----------|------|
|           | 1898    | 1899     | 1900     | 1901     | 1902 |
| 1884..... | 121,406 | Paid out |          |          |      |
| 1885..... | 8,792   | 18,786   | Paid out |          |      |
| 1886..... | 1,358   | 1,331    | 6,743    | Paid out |      |

Twenty-Year Accumulation.

|           |         |          |        |        |        |
|-----------|---------|----------|--------|--------|--------|
| Issued    | 1898    | 1899     | 1900   | 1901   | 1902   |
| 1884..... | 33,097  | 32,946   | 32,410 | 37,001 | 23,074 |
| 1885..... | 80,267  | 81,021   | 70,597 | 80,538 | 51,486 |
|           | 1903    | 1904     |        |        |        |
| 1884..... | 203,167 | Paid out |        |        |        |
| 1885..... | 44,364  | 541,083  |        |        |        |

Fifteen-Year Accumulations.

|           |          |          |          |          |          |
|-----------|----------|----------|----------|----------|----------|
| Issued    | 1898     | 1899     | 1900     | 1901     | 1902     |
| 1884..... | 303,304  | Paid out |          |          |          |
| 1885..... | 80,331   | 471,904  | Paid out |          |          |
| 1886..... | 89,744   | 97,505   | 566,801  | Paid out |          |
| 1887..... | 105,224  | 98,301   | 89,930   | 615,292  | Paid out |
| 1888..... | 140,200  | 131,648  | 123,661  | 153,770  | 635,961  |
| 1889..... | 160,148  | 154,126  | 137,678  | 163,687  | 86,702   |
| 1890..... | 130,593  | 123,346  | 107,266  | 121,185  | 64,974   |
| Issued    | 1903     | 1904     |          |          |          |
| 1888      | Paid out |          |          |          |          |
| 1889..... | 747,274  | Paid out |          |          |          |
| 1890..... | 49,073   | 670,514  |          |          |          |



*Testimony of John A. McCall*

| Ten-Year Accumulation. |          |          |          |          |          |
|------------------------|----------|----------|----------|----------|----------|
| Issued                 | 1898     | 1899     | 1900     | 1901     | 1902     |
| 1889.....              | 122,398  | Paid out |          |          |          |
| 1890.....              | 37,720   | 143,105  | Paid out |          |          |
| 1891.....              | 33,060   | 28,294   | 123,864  | Paid out |          |
| 1892.....              | 26,012   | 24,301   | 19,572   | 60,299   | Paid out |
| 1893.....              | 31,905   | 21,469   | 21,276   | 27,660   | 129,972  |
| 1894.....              | 28,770   | 28,801   | 24,994   | 34,927   | 12,982   |
| 1895.....              | 26,649   | 15,056   | 11,129   | 16,071   | 7,760    |
| Issued                 | 1903     | 1904     |          |          |          |
| 1893                   | Paid out |          |          |          |          |
| 1894.....              | 158,753  | Paid out |          |          |          |
| 1895.....              | 3,066    | 127,525  |          |          |          |

These items are in each case portions of the totals under head "Apportionment of surplus from the previous year"—as Head 6, b, in "Distribution of profits, etc.," for 1904.

Also in "Added to profit Reserve" in "Profit and Loss Account."

Q. I, of course, did not expect you to remember the particular figures, but it would seem as if a matter which challenges our surprise would be something that you would necessarily have discovered? A. Only in a general way that it was an adjustment of the Tontine at the end of the year—the adjustment of the maturing tontine in the year of maturity.

Q. Well, but does not your amended charter require that these dividends, whether paid out or not, shall be ascertained by the company—yearly ascertained? A. We ascertain the divisible surplus yearly, and that entirely, of course, is a matter of calculation by the actuary and reported to the board as to how much we shall add to this fund each year during the progress of the Tontine period and the Board of Trustees and the officers rely

*Testimony of John A. McCall*

absolutely upon the figures of the actuary, as to how much amount shall be added from these various sources.

Q. Well, of course, in other words it must appear, must it not? We must infer from these figures if correct, that you do not carry to the surplus every year anything like what the dividend is? A. No. The amount that we carry each year is according to the report of the actuary, adopted by the Board, as to what in his judgment shall be allotted each year to the class until the final completion and the final payment is ascertained.

Q. Well, the effect of it is, is it not, that there is an immense fund which is a part of the surplus which the company practically feels at liberty to use until the time comes when there has got to be a dividend paid? A. Well, practically that, if you will permit me to say this, that nowhere in the New York Life report is the word "surplus" used.

Q. Well, what do you call it? A. We call it reserves for the tontine policies and then finally the general reserve over and above the liabilities charged by the State to losses and the amounts set aside and assigned to these maturing contracts, it being a New York Life Insurance Company principle that its assets belong to its policyholders and its surplus is divided among these various classes so that you will find on reference to the New York Life reports for the last five years, at least, that the word "surplus" is not used in any way, but we do divide what other companies report as surplus, the amounts assigned to each of these classes 5, 10, 15 and 20-year.

Q. And you do carry as a liability in your company the agreed obligations as to the payment of surrender values, I believe? A. Yes, sir.

Q. You regard them as liabilities that may mature and, therefore, you must provide for them? A. Absolutely.

Q. But, nevertheless, it would appear to me that under the provisions of the charter which seems to require the ascertainment

*Testimony of John A. McCall*

of the surplus on a class of policies every year, that while the company is not obliged to declare a dividend or make it an obligation to the particular policyholders, that the surplus ascertained each year and set aside, that those amounts added up would make the entire amount at the end of the period—would not that seem to be so? A. Well, it would, except this, that the company always reserved the right in the making up of its assets and its statements that there shall be a final adjustment, because it would be impossible to tell exactly who would be in your last maturing class. Now, I wish for the purposes of the record, that I might be permitted to state this, that there is no fund of the New York Life of any kind that is not absolutely assigned to classes. We have no such fund as a surplus fund, that may be used for any purpose whatever, for any motive of its officers, or for any disposition of its officers. Every dollar of our ascertained excess you will call it surplus, if you please, every dollar of that has an assigned purpose, and the laws of the State of New York, although it has been said to the contrary,—the law of the State of New York provides to-day that there shall be no other investment of that surplus or tontine fund that does not pertain to every other investment of the company. There is a very wide notion that the obligations of a life insurance company on its deferred dividends policies may be invested as its officers please, that they may be held in any fund that you care to name. It is not true at all. The investment law of the State of New York regulates with preciseness and with positiveness every investment that you make, no matter whether it relates to reserves or to liabilities or to surplus, if you will, so that when you get to a certain point in the distribution of large sums where there appears to be an excess in that class in the last year of the determination it is nothing more than an adjustment in the entire experience of the company in paying out the moneys of that year, because all of these moneys have had their previous assignments and from time to time, either by

*Testimony of John A. McCall*

classes or in that line that says that the amount held for all other purposes beyond those described is as follows——

Q. Well, you said, in answer to my question a little earlier in the day, that, as a rule, you got the money to meet the reserve on the first year of the policy inasmuch as you didn't get it from the premium, they all being used up in expenses, that you took it from the surplus? A. Well, I did use the word surplus. I mean by that in a sense the moneys to pay for a deficit in the first year's reserve, from the moneys the company has in hand comes in that line which you will find "Reserve for all other purposes."

Q. Well, having taken a part of this surplus, or considering it reserved against those first year's policies, when you come to settle with the people under your contracts at the expiration of the deferred dividend period you have to get their share back, don't you, from some source? A. —————

Q. Where do you get that from? A. All the surplus over and above the assigned amounts we get from the general item—if you will permit me to refer to it in the last New York's report it you have it there—is the words "reserve to provide for all other contingencies," \$8,461,000. Above all our liabilities of every kind noted in this report we have \$390,000,000 of assets according to the report for December 31, 1904. On the other side of the account are the liabilities, first, the reserve on the policies over which we have no control of any whatever. We get a certificate from Albany stating what our policy liability is and we have no right to change it, and we adopt these figures, and that amount is \$336,000,000. Following that up are the various liabilities for loans, then we subdivide into the various tontines, 20, 15, 10 and 5 years, then so much for the annual dividends, then we have in addition to that a reserve to provide for all other contingencies \$8,461,000, and if you will permit me to say right there, Mr. McKeen, that in our own company it has been the practice for the past two years that the New

*Testimony of John A. McCall*

York Life has not included in its assets in any way an amount equal to \$8,000,000, being the value of its securities at a market rate above their cost value, and that does not enter into the surplus in any way. In other words, if our statement was made up, as those statements are made up by all other companies generally, we would have added \$8,000,000 to our assets and to our surplus accounts.

Q. Now, to go a little further on the subject of the surplus, I will read a letter received from one of your policyholders. I cannot, of course, vouch at all for the accuracy of it, but it is a specimen, if I may say, of scores of letters received by the committee and it will put the character of the complaint in a concrete way.

This is dated October 3d, just received :

“New York, October 3, 1905.

“Hon. James McKeen,

“Attorney for the Armstrong Ins. Investigating Committee,  
“40 Wall Street, New York City.

“Dear Sir :

“I have paid premiums on life insurance for over thirty years and have given some thought to the business. My object in writing you is to most respectfully suggest that it might be interesting and profitable to inquire into the matter of the transfer of some seventeen million dollars (\$17,000,000) from the surplus to the reserve fund by the New York Life Insurance Company some years ago. This transfer, as I remember it, was made for the purpose of bringing the reserve on all policies of that company then in force up to the full  $3\frac{1}{2}$  per cent. reserve in place of 4 per cent. which was at that time the standard of all American companies with one or two exceptions. It was claimed that this transfer

*Testimony of John A. McCall*

would add to the security of the policyholder and really make no difference to him in the end, as the total cash value of his policy at the maturity of the deferred fifteen or twenty years' dividends period would be exactly the same, the reserve being higher and the dividend correspondingly lower than the 4 per cent. reserve, but the total cash value just the same.

"Now, in settling these life and limited payment life contracts at the end of the fifteen and twenty year dividend periods it has been the rule in all companies, I believe, to allow as a guaranteed cash surrender value the full reserve held by the company in the event of the surrender of the policy at that time.

"The question is, has the New York Life since said transfer allowed or offered to allow the full  $3\frac{1}{2}$  per cent. reserve on life and limited payment life policies at the end of the fifteen and twenty-year deferred dividend periods? That they have not done so the following statement seems to prove, viz.:

"Policy No. 361,777, issued by the New York Life Insurance Company June 18, 1890, at age 42, amount \$5,000, fifteen payment life plan, fifteen deferred dividends.

"Cash surrender value offered June 13, 1905.. \$2,815.50

"Dividend, June 13, 1905..... 974.65

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"Total cash value, June 13, 1905..... \$3,790.15

"The cash value as above, \$2,815.50, is the full 4 per cent. reserve of the 'Combined Experience' table, and is \$135.60 less than the  $3\frac{1}{2}$  per cent. reserve of the 'American Experience' table which was to be used, I believe, for the valuation of all policies of this company issued prior to the transfer of the \$17,000,000 referred to.

"Now what became of this \$135.60? Was it deducted from the reserve and added to the dividend for the purpose of bringing it up to the neighborhood of what other companies pay in 1905 on similar policies? If you will examine the record of this company

*Testimony of John A. McCall*

as to total surplus for policyholders for the past several years and compare this with the enormous increase in liabilities, there may seem to be a reason for such a transfer.

"The figures as to amount of cash value and dividend given above are correct, as I copied them from the statement sent out by the company. The policy is not on my life, but on that of a friend. I find that in 1904 policies similar to the above, issued in 1889, were settled by this company and the full  $3\frac{1}{2}$  per cent. reserve, 'American Experience' table, allowed as a cash surrender value. Why the change to the 4 per cent. reserve in 1905, except to reduce the liabilities and to increase the surplus?

"Yours very truly,

"\_\_\_\_\_."

Q. Will you kindly explain for the benefit of this correspondent and the Committee—give such explanation as you can? A. Yes. He refers, Mr. McKeen, to a transfer made several years ago, of the company maintaining a higher reserve than the State and we endeavored by adopting the higher reserve of  $3\frac{1}{2}$  per cent. before it was the State Law; it is now the State Law in regard to contracts at present issued; to have in hand the largest sum of money to meet our claims under the most conservative law of any State. The Department itself in receiving that report rather objected that we should take their own figures under the Law of this State, and whatever transfer we made on that account, we should hold absolutely separately, and because of the confusion of the thing, we adopted the New York Law just as the law stands, and took the liability at the 4 and  $3\frac{1}{2}$  per cent. under the term of the Law. In other words, we were striving to maintain a higher reserve, and put aside a higher reserve than the Law of this State gave. Now, that contract that you speak of, by the number of the policy, it shows absolutely that the man is finding fault, and it is generally the kind

*Testimony of John A. McCall*

of man that you find in that letter—a friend of a policyholder—the policyholder himself does not make any complaint, you know, and probably that friend is the agent of some company, so he comes in to find why the New York Life tried to do a conservative thing some years ago, and why now, they are paying a certain value on the basis according to the New York standard. The answer I can make is this, that it did not make any difference to the New York Life Insurance Company whether that \$17,000,000 was in its reserve liability or in reserve for tontine policies—not the slightest difference; no money was taken out of its assets; no harm was done anyone, and because we tried to be stronger than the State really wanted us to be, he is now trying to find fault with our action.

Q. Let us see, the State two years ago in the interest of conservatism changed the basis under which a company is permitted to do business so that it must have assets, which at a lower rate of interest than formerly, will meet its obligations. A. Not on all contracts.

Q. Not on all contracts, but on all contracts since 1901? A. Yes.

Q. You must now have a reserve, which, at the rate of 3½ per cent. will at the period of expectation meet the policy? A. Yes.

Q. And the State has also substituted the 4 per cent. for the old 4½? A. Yes.

Q. Which also increases the reserve on policies prior to that date. Now, that is the method the State adopts in the interest of the security of the people generally? A. Yes.

Q. And if you have entered into a contract with a man prior to that legislation under which you fix by contract a certain value of his reserve on the 4½ per cent. plan, do you discover in the passage of the law anything that enables you to depart from carrying out that contract? A. Not at all. Of course,



*Testimony of John A. McCall*

you understand in the  $4\frac{1}{2}$  per cent. reserve is much less than in the  $3\frac{1}{2}$ .

Q. Yes, it is much less, but the point of the complaint, as I understand it, is that you have made a distinction favorable to the company in carrying from the surplus that you had agreed to pay, something into the reserve. That is the gist of the complaint, and it is so universal that it would seem to have some foundation. A. No. As a matter of fact, take on one side, suppose, in paying a surrender value to a man we should take the reserve of the State on a lower basis, and say it was fifty dollars, and his surplus we will say was twenty-five dollars, that would be seventy-five dollars. Now, if we took and made that fifty dollars sixty dollars, by calling it reserve, and calling the surplus fifteen dollars, the same adjustment would be made as though we called the surplus fifty dollars and the reserve twenty-five dollars. It don't affect him at all. The effect of that transfer was nothing else in the world but to help the New York Life as being understood as adopting a much higher reserve than the state itself asked, and if we transferred it from surplus amount to reserve amount it made no difference in the end so long as the man got  $3\frac{1}{2}$  per cent. reserve and no surplus, or 4 per cent. and the amount of the surplus.

Q. Of course it is a matter for careful mathematical investigation and I did not intend to ask you further on it, and I will only ask from you such brief explanation as may seem pertinent. A. Quite proper.

Q. Our attention has been called to this, about which I would like to ask a question: It has been stated quite authoritatively, and I think indeed it appears in the papers of the company, that in connection with the concessions made for the purpose of retaining your hold in Germany, the German Government required you to make a special discrimination in favor of Germans in military service that is not made elsewhere. Is there any basis for that?

*Testimony of John A. McCall*

A. Absolutely none, our actuary says, if you will adopt his answer as mine.

Q. That is erroneous? A. That is erroneous. There is no distinction.

Q. We will ask him later about that. A. I didn't know that there was.

Q. Attention has already been called that the company makes a similar discrimination—not similar because you say there is none—but made a discrimination in the matter of a Spanish business in favor of Spanish soldiers, which were denied to American soldiers in the late war. A. We are not so treasonable as that.

Q. Is there no basis for that? A. No, sir. In fact, we sided with America in that. My son advises me, if you will accept his answer—he does—that we didn't issue a policy to a Spanish soldier during the war, so there couldn't be discrimination.

Q. The matter of making loans on policies, we would like at the convenience of the company, we have already called, I know, at very great length for statements which have been very cheerfully furnished, but there are a few more which I will ask to be furnished at your convenience, which I will come to. Among them we will want to have the form of contract entered into between the company and policyholders, to whom loans are made, but subject to any difference that may appear on the forms of contract, will you kindly state when the company entered upon that branch of business, loaning to its own policyholders. A. That was in our policy of 1892.

Q. Subject to the revision of the law which permits it. A. Yes.

Q. Now, in a general way, what is the character of the contract which you enter into? A. With the policyholder about a loan?

Q. For a loan, yes. A. It is provided absolutely in the contract itself just how much he can borrow after every premium, and he takes the policy under the law and hypothecates it just as any other collateral, and makes the agreement and agrees to pay 5

*Testimony of John A. McCall*

per cent. and the policy itself, and the note is lodged with the company.

Q. And in the event of his failure to pay the note, or pay interest on the note, what is the remedy the company reserves to itself?

A. Say the loan was \$200 and the reserve was \$400, and he had failed to pay the interest on the note, we would add up the interest on the amount he owed and give him the difference between the surrender value and what he has borrowed, just as he might elect under the contract himself to take paid-up insurance or cash. It is determined in that way; various ways of determining it. Of course, there was no forfeiture of any amount of money because he failed to pay the interest on the note.

Q. You figure up, in other words, if the loan is not paid, or if the note is in default, the then value of the policy. A. Yes.

Q. And you figure up what is due on the note and you figure up the surrender value of the policy and you then send him the check for the difference? A. Yes, we give him the cash or the difference between the surrender value and what he has borrowed, plus the interest.

Q. Now, of course, Mr. McCall, the real value to a policyholder, as we said at the outset of this inquiry this morning, if his life is impaired is very much greater than this contract's surrender value. Isn't there a temptation to the company in this business of loaning to be rather astute to forfeit the policy if they discover that the life is impaired? A. No, Mr. McKeen, we have nobody on the rolls or elsewhere reporting to us about impaired risks. That is a lost art in life insurance. That used to prevail. New York Life to-day would scorn to send anyone out on the road to find out whether its risks were impaired or not.

Q. I didn't mean to indicate you did such a thing. A. It used to be a fact with companies that they did that thing.

*Testimony of John A. McCall*

Q. I think I remember the Globe Mutual did it. A. They did it, yes.

Q. My question is not intended as an intimation that your company do anything of the kind. A. No.

Q. It was only to ask whether there is not a temptation to do it, in other words, whether there is not that difference between the company making loans on its own policies and a bank making a loan—in other words, if a bank makes a loan on an insurance policy and it discovers that the life is impaired and that the man is not going to live, the value of the security, of course, is greatly enhanced, but in the case of a life insurance company the temptation must be, if they honorably can, to reduce their liabilities in a case like that, is it not? A. No; we make no such—

Q. You think there is no such temptation that has any weight with the New York Life? A. No, there is no such effort made by us at all.

Q. Well, you are aware that a great many conservative insurance people strongly object to the law which permits companies to loan on their own policies? A. Well, I have never heard that before.

Q. Haven't you? A. No, sir.

Q. Don't you remember Mr. Jacob Green strenuously opposed it in the Milwaukee Convention and gave reasons for it? A. Opposed loaning on policies?

Q. Yes. A. Yes, he did, you are right about that, Mr. McKeen, but I thought you meant in addition to that that nowadays there was a feeling among business men against loaning on policies.

Q. I meant there was a feeling among conservative insurance men against it. A. Well, Mr. Green was so ultra-conservative that I think he would oppose anything he did not originate.

*Testimony of John A. McCall*

BY MR. TULLY:

Q. How general is the rule of making loans upon policies—how generally is it observed? A. We loan up in the millions, thirty-six millions, Senator.

MR. McKEEN: I was about to suggest if the company has any questions to put that I am about through.

BY MR. TULLY:

Q. I didn't mean so much the amount your company has loaned, but how general is the practice among life insurance companies? A. Oh, they have been forced to adopt that system, most of them, as a rule. I may say in addition to that the alternative is there, a loan or surrender value, which is practically the same thing, only a loan continues the policy in force, and the surrender value surrenders it.

Q. Will you give the difference in premiums on the ordinary risk policy and the sub-standard risk? A. There is no difference in premium. Discrimination is not made on premium. I do not think there is a sub-standard policy where there is a higher charge. It is there a lien that runs over in the advancing years of the insurance.

Q. What is the lien? A. It depends entirely on how bad the risk is.

Q. That is according to the risk. A. Yes. When this medical examination is shown and accepted, then a calculation is made of just what percentage of risk that man is, and it is taken according to that plan.

*Testimony of Rufus Wells Weeks*

BY MR. PRENTICE:

Q. Mr. McCall, I recollect hearing you say that there was an extra premium charged in addition to the regular premium upon these sub-standard risks. Am I correct in that? A. The actuary advises me that in European countries there is such a method as that because of the peculiar mortality there.

Q. Can you give me any idea as to the proportionate amount of that extra premium to the regular premium?

MR. McKEEN: Mr. McCall, if you will step aside for a moment I think we will ask Mr. Weeks some questions now.

THE WITNESS: I wish you would, because he is more familiar with that subject than I.

RUFUS WELLS WEEKS, called as a witness, and being duly sworn, testified as follows:

BY MR. McKEEN:

Q. Mr. Weeks, what is your office or position? A. I am Chief Actuary of the New York Life and one of the vice-presidents.

Q. How long have you been the Actuary? A. Since 1885.

Q. Mr. Weeks, later on we shall have a good many questions, I think, to ask you, somewhat bearing on the mathematical problems of life insurance, but without attempting now to go into that, while the subject is up I want to ask if you will be kind enough to explain the matter of the very large increase in addition to surplus that I asked Mr. McCall about, that appears from your returns to the Prussian Government. I think you recall the figures. A. That is due to the fact that what we call these interim allotments, and the final allotment when the sec-

*Testimony of Rufus Wells Weeks*

tion of policies comes to its maturity, are two different calculations, that they have no relation to each other. The aggregate of the interim allotments must correspond to the surplus, the legal surplus that we have in hand, and that legal surplus is necessarily reduced from what it would naturally be, by what we might call the deficit of the new business, that is, when we issue whatever the business of the year is, the acquisition expenses in that business are such that there is not any money left to be put into the reserve, and the State requires a reserve to be put up on that new business, and as you pointed out it has to come from somewhere, and it comes from what would be the surplus on this running sections of policies, but when a section has come to its maturity, then it is entitled to all that is coming to it, including its share of these advances.

Q. Then you do not attempt each year to determine what the addition is to the surplus of the policy as it runs along? A. Of the individual policy?

Q. Yes. A. No, sir.

Q. You wait until the policy is approaching the period of its maturity and then you put up a comprehensive system of finding out what the surplus ought to be as the result of the whole history? A. Yes, sir.

Q. And it is then you make the calculation? A. Yes.

Q. And it accordingly results that we find that there is an amount to be added or set aside as surplus enormously in excess of the estimates that you have set aside during the ad interim years? A. Necessarily so; yes, sir.

Q. Now, I find in the amended charter which the New York Life adopted under the revision of the insurance law of 1892, the charter which was adopted July 24, 1893, among other things, this provision in Article VI, Section 2:

"Distribution of surplus earnings. The officers of the company, within sixty days, subsequent to the 1st of January of

*Testimony of Rufus Wells Weeks*

each year, shall cause an estimate to be made of the profits and true state of affairs of the company, as near as may be, for the preceding year, which estimate shall be conclusive upon all persons entitled to a share of the distribution of surplus, which shall be made in accordance with the general provisions of law, either in cash or in reduction of premiums or in reversionary insurance, payable to the policyholder on the same conditions as therein expressed."

Q. It was that provision which led me to ask President McCall why you had not adhered to it in practice. A. It is adhered to.

Q. Then you think there is nothing in that which compels the ascertainment each year of the surplus earned, whether divided or not? A. Certainly not. These ad interim credits have nothing to do with the ascertainment of the surplus divisible.

Q. Well, do you ascertain the real surplus each year? A. We do, the real surplus divisible.

Q. In what sense do you make these additions to surplus which are returned to the German Government? A. They are approximate minimum credits. The system was established, in the first place, simply to meet a requirement of the Prussian Government. We had always—at least, we had for some years—stated what we formerly called a tontine fund, that is, a fund for paying dividends in the future, and the Prussian Government required that we should sub-divide this fund according to these sections of policies, that is, policies that were issued in one year and for the same period would be considered one section or grouped by themselves, and the Prussian Government required we should say that out of that total fund so much belonged to each of these groups. Therefore, we did that, but there was nothing in our law that required it, and nothing in our own by-laws that required it.

Q. And, of course, there is no actual setting aside in the company any distinct fund other than it is a matter of bookkeeping entry? A. That is all.



*Testimony of Rufus Wells Weeks*

Q. The assets of the company include what some people call the surplus and is all kept together as one fund? A. Certainly.

Q. And when it comes to a matter of finding out what any policy is entitled to you mathematically ascertain it by computation? A. Yes, sir.

Q. Now, without going extensively into matters which, as I have said, we would perhaps call upon you to explain later, we might now be pardoned for asking you to explain a little more fully the methods of this sub-average insurance? A. Yes, sir.

Q. Now, it has been explained to some extent that your method is to charge a loan against the policy? A. What is called a lien.

Q. A lien on the policy? There is another method prevalent, is there not? A. Prevalent in English companies ordinarily.

Q. In the Equitable, do you happen to know? A. Of advancing the age?

Q. In other words, the practice there is to take a man who can't pass, who is thirty years old, and the company says it will insure him if he will consent to be forty, that is the way? A. Yes, sir.

Q. Will you explain further what the method is of charging a lien against the policy? A. Our Medical Board have tables of impairments, as we call them. That is, for instance, if a man has had both his parents die of consumption under the age of seventy, why, that is a certain impairment and we have had enough cases of that kind to know how much extra mortality that involves, so for each one of these classes—there are several hundreds of them—we have a certain method of determining the value of the risk. That is, we take a normal risk at 100 per cent.; well, we might say, then, that a person, both of whose parents died under seventy, was 150 per cent. And then at the rate in the figures. And that would mean that out of all the mass of insured at that time one-half as many would die each year as out of the normal risks.

*Testimony of Rufus Wells Weeks*

So you see the principle is a certain schedule of the values of risks, ratings, we call them. These ratings run from 80 per cent., where there is an extraordinarily good risk, an exceptional family history and nothing the matter with the man; he might be rated as 80 per cent., and those ratings may run up to 250, 300 or 500 per cent. Now, we have made up by the actuary department a table of liens corresponding to those ratings, so if we have a man of forty and the Medical Board says his rating is 75 we look on our table of liens and see exactly what lien ought to be imposed on that man for the character of policy he is taking so that he would be just as well to have as if he were a normal risk and had a normal policy.

Q. These tables, you say, are tables your Medical Department has prepared from your own experience? A. Not entirely from our own experience, but from other statistics we have obtained.

Q. Do you think there are statistics enough to frame any rate of premium on lives of that kind that can be called scientific? A. Well, the proof of the pudding is in the eating, Mr. McKeen. Our pudding eats all right.

Q. You have made a great deal of money out of these policies? A. No, sir, we don't make any money out of the business at all.

Q. Do you mean the deaths have increased? A. No, I mean whatever the business realizes more than the reserve is going to be paid back to those policyholders as their periods mature, and from present indications there will be considerable paid to them.

BY MR. TULLY:

Q. Is such an impairment table in general use among all companies? A. I believe not. It is original with us; as far as I know no other company has it.

*Testimony of Rufus Wells Weeks*

BY MR. McKEEN:

Q. Mr. Weekes, you are quite aware of the very earnest criticisms made about the deferred dividend system? A. Yes, sir.

Q. I assume, of course we must assume, that you are in favor of it? A. Yes, I am.

Q. Well, will you very briefly say why you think that is a better system than a system which would ascertain the surplus or amount in excess of the cost of insurance each year and credit it each year to the policyholder? A. That is what is called the annual dividend system.

Q. The annual dividend system? A. Well, the deferred dividend system is better for a good many reasons.

Q. Will you kindly state, without giving us too long an essay on the subject, briefly what the arguments for it are? A. It is a more attractive system; the agents find it easier to insure people on the deferred dividend system, therefore, it is easier to make the company grow larger. You can insure a great many lives on that system which you probably could not touch at all on the annual dividend system through the appeal to the commercial man's natural selfishness. Then after you have got them insured it is easier to keep them insured because they have the inducement ahead of them of the surplus to come if they continue, which they lose if they don't continue. Those are the two business reasons in favor of the system, but you may also call them philanthropic reasons, the reasons having the general welfare in consideration, because of course it is to the general welfare that all men of the country whose lives have a protective value to their family should be insured, and any insurance that will bring out a certain fraction of those lives is of course of benefit and ought to be encouraged by the state.

Q. What proportion of the holders of deferred dividend policies, roughly speaking, terminate their relations with the company at the expiration of the period? That is, take their dividends and

*Testimony of Rufus Wells Weeks*

also take their surrender value and get out? A. Well, of course, all those that have what we call endowment policies, maturing at that time have to do so.

Q. Why certainly. A. Those that have life policies—that varies with different years; I should think on the average two-thirds. That is subject to correction, but I should think on the average two-thirds take their entire cash value.

Q. Then two-thirds of the people that are insured on this plan have really only given to their widows and children the advantage of insurance during the period? A. During the period of twenty years.

Q. Nothing is laid up and nothing is saved up for the benefit of the dependents? A. Well, but they take the cash value of the policy; that may be the face of the policy.

Q. Yes, but the man gets it himself? A. Yes, the man gets it himself, but it is to be presumed he will re-invest it.

Q. Do you think that is a fair presumption? A. Yes, sir; I think so.

Q. Wouldn't he be liable to continue it if he was generously inclined? A. Some insure again.

Q. You said one of the benefits was that this appealed to the selfish man, and is it not one of the principal boasts of life insurance that it is a beneficent system and appeals to the obligation on the part of man to provide for his dependents? A. Yes. You have to appeal to them also to their selfishness; you have to appeal to all kinds of motives to get business. You must appeal to selfishness as well as to moral motives.

Q. It would seem that the appeal to selfishness is to do something good? A. Well, the good element comes in incidentally.

Q. Why should the company pay its agents higher commissions for writing that kind of policy? A. One reason is because they will get more renewal premiums to cover the first commissions.

Q. Well, don't you pay them absolutely more, don't you rather

*Testimony of Rufus Wells Weeks*

encourage your agents to get that kind of policy rather than the ordinary policy? A. We pay a higher commission—not a higher commission; we pay a renewal, one renewal on the deferred dividend business which we do not on the annual dividend business, but that isn't a very great difference and it is not any more than is represented by the extra privilege that we will expect these future premiums, which really we must count on in order to pay this commission.

BY THE CHAIRMAN:

Q. Mr. Weeks, why is it you pay the largest commission for the business you say is the easiest gotten? A. I don't think we pay any higher commissions than we have to pay to keep the agents at work.

Q. Don't you pay a higher commission on the first premium policies than you do on other policies? A. Yes—yet as I say there is no difference in the first commission, there is a slight difference in the fact that the agent who writes an annual dividend policy does not get that renewed on the other——

Q. Is there any policy on which you pay less than sixty per cent in the initial premium? A. Yes, we pay that on very few policies.

Q. But what are the general classes of policies on which commissions are paid and what are the rates upon those classes? A. Well, I am subject to correction in this because I am not familiar absolutely with the commission rates, they come under the agency department, but the normal commission is 40 per cent.

Q. Upon what class is it 40 per cent on the initial premium? A. On ordinary life policies, twenty payment life policies and twenty year endowment policies, but we pay 50 or 60 per cent according to the amount of insurance that the man writes, as I understand it.

*Testimony of Rufus Wells Weeks*

Q. I am talking about the first commission. A. Yes, the first commission.

Q. Do you mean the relative proportion of the first premium that is given to the agent depends upon the size of the policy?

A. Upon the amount of business he does.

Q. Entirely? A. Yes, largely.

Q. Do you say, Mr. Weeks, that the commission is not greater to an agent for writing a policy in which there is a deferred dividend clause or provision than upon an ordinary life policy?

A. No, the first year's commission is the same, but the agent who writes a deferred dividend policy has a clause in his contract providing for another commission on the second premium providing he writes a certain amount of business. I do not remember the particulars, but he has a certain amount on the second premium, but if he writes an annual dividend policy he does not get that.

Q. I do not understand yet, since you say that the deferred dividend plan is the easiest kind to write, why you should offer the greatest inducement to the agent to get the easiest kind of business? A. We do not offer him any greater inducement than we have to to get that business.

Q. But you still say it is the easiest business to get, don't you?

A. Yes, but I do not see the point exactly. I say our main business almost is deferred dividend policies. The annual dividend is a very small factor in our business. We do not pay agents any more than we must pay them in the general state of the market to get them to do our work.

Q. Why do you pay them the most for getting the easiest business than they get? A. I do not see that the point comes up at all. We are writing deferred dividend business and paying as little commission as we can, and we also have the annual—

Q. But you pay more for deferred dividend business relatively than for that which is not? A. Put it the other way. Say we

*Testimony of Rufus Wells Weeks*

pay a little less for the annual dividend business. We do not want the annual dividend business.

Q. You pay less for the annual dividend business? A. Yes.

Q. Then you pay less for the business that is harder to get? A. Yes.

Q. And pay more for the business that is easier to get? A. Well, you can put it that way.

Q. Why do you pay more for the business that is easier to get? A. We do not compare the two things in that way.

Q. But whether you do compare them or not, what reason is there for it? A. There is no reason, there is no connection between those things.

Q. There is no reason that you can give then? A. There is no reason that I can give.

BY MR. ROGERS:

Q. You stated that you do not want the annual dividend business. Why not? A. Because we think the deferred dividend business is a better kind of insurance.

Q. For whom? A. For everybody concerned.

Q. Why? A. I have given you two of the reasons. Another reason is that it is not possible for a company to do a large new business on the annual dividend business system, not nearly as large as it can on the deferred dividend. As already pointed out, the acquisition expenses are so great that you have not got the money on hand to even put up your reserve at the end of the first year which the State requires, and that being so, this reserve on the new business must necessarily reduce what otherwise would be the surplus of the company. If your business is all annual dividend business that reduces possible annual dividends right away, so the larger new business you do the smaller dividends you could pay if it was annual dividends, but if it was a deferred

*Testimony of Rufus Wells Weeks*

dividend, the large new business does not need to affect the business at all because your account can be so kept that it is only the original expense that affects the final dividends of that year, and it is not affected by the intermediate year's expenses.

Q. Then the overwhelming desire which seems to actuate the policy of the company is the desire to obtain new business? A. Precisely, that is what we are in the world for, to insure lives.

Q. Is it not a fact, Mr. Weeks, that the companies have run mad, if I may use the expression, in the race for new business, so that the interests of the policyholders who are already in the company have to some extent been lost sight of? A. No, sir; it is not the fact.

Q. Did you see a table of figures that was published yesterday, I think, or the day before, and I think in the *New York World*, which gave certain tabulations with reference to the *New York Life*, showing what was held out as the probable returns upon policies through policyholders in 1890—I remember one year—and what the actual realization had been, which were all of them less than the anticipations given to policyholders some years ago. Did you see that table? A. I saw there was such a table. I did not examine it at all.

Q. Was it not of sufficient interest to you to examine it? A. No, it was not.

Q. It was very interesting to me. A. Well, I would be very glad—

Q. I would be very glad to know if it was accurate, and if not, wherein it was inaccurate. A. I will look it up and see.

Q. It is rather surprising to me if it was not of interest to you. A. You would not have time to do your business if you read everything in the papers now.

Q. That is part of the business of the Committee just now, and it is of great interest to the public. A. I will look it up.



*Testimony of Rufus Wells Weeks*

BY MR. TULLY:

Q. When a twenty-payment policy matures do you sometimes insure the insured at the same premium he was originally insured at for the sake of holding him? A. No.

Q. Never do that? A. No.

BY MR. HUGHES:

Q. Your answer has suggested some questions I would like information upon. I understand you favor the deferred dividends in order that you may have a fund to draw upon to meet the expenses of obtaining new business? A. I did not say that. I said I favored them because it made it possible to do a large new business without reducing the dividends to the policyholders, without hurting the old policyholders.

Q. Then do I understand it would not be possible to do a large new business without reducing dividends to policyholders if you did your business on an annual dividend basis? A. Yes, sir, it would be impossible.

Q. Do you recall a question having arisen in 1903 between the Paris office of your company and the home office in regard to the reasons for the comparatively small increase in surplus for the prior year? A. I do not recall that.

Q. (Handing paper) I would like to ask you if that is a copy of the letter written by the actuary of the New York Life Insurance Company to Vice-President Ingersoll of the Paris office? A. Yes, sir.

MR. HUGHES: I offer that in evidence and will read it upon the record.

(Paper marked Exhibit 237 and read by Mr. Hughes.)

*Testimony of Rufus Wells Weeks*

Q. Now it is a fact as stated here, is it not, putting on the books as much new business as was written in the years 1900 to 1902 involved the borrowing, as it is put, of about fourteen million dollars from the surplus? A. It is not really a borrowing, it is in a theoretical sense, it is a borrowing. The whole trouble comes from the law which requires us to put up a reserve, when really there does not any reserve exist.

Q. Yes, but as a matter of fact you do take from the accumulations which you have on hand at a certain time in order to pay the expense of writing new business, a large amount of money? A. No, I should not put it that way. I should say we paid the expenses out of the premiums received, but we took from the money already in hand the necessary money to put up the reserve.

Q. Well, divide it one way or the other. A. There is quite a difference.

Q. To comply with the law to get the new business? A. Actually, yes.

Q. To pay the expense of getting it, you found it necessary to encroach to the extent mentioned upon your accumulation which you call surplus? A. Yes, that happens with every company every time they write a new policy.

Q. Is there a point at which there is a disadvantage to old policyholders to obtain new insurance. is there any such point conceivable? A. Well, yes, if you paid so much for new business that it forced—that it anticipated more than the value of the future loading there was going to be on that same new business, then it would be a damage to the old policy holders.

Q. It would to a considerable extent depend upon the expense incurred in getting the new business? A. Entirely so I should say.

Q. Mr. McCall called attention a moment ago to the serious result of extravagant expenditures in connection with certain companies some years ago. You still recognize the fact that the

*Testimony of Rufus Wells Weeks*

amount of money expended in getting new business is a very serious question, don't you? A. Yes.

Q. I want to follow that along and see just to what extent you do encroach if at all upon your accumulation in getting new business under your present rate of expense. A. Yes.

Q. As that subject has been a matter referred to in many communications which the Committee has received. A. Yes.

Q. You have furnished me with a gain and loss Exhibit for the year ending December 31, 1903, and you state that the total expenses chargeable to the business of that year called First Year Business, amounted to \$10,785,575. A. Yes.

Q. That is right? A. Yes.

Q. Of which \$6,564,180 was for commissions paid for the business? A. Yes.

Q. And \$4,221,395 other expenses properly applicable to the new business of that year? A. Yes.

Q. Now the amount which was loaned upon the premiums received upon that new business for that year amounted, as you have stated here, to \$3,085,640? A. Yes.

Q. By that you mean that the new business of that year in the percentage of loading contributed to the expenses of that year the amount stated? A. Yes.

Q. And if you deduct \$3,085,640 just received from the total amount of expenses chargeable to the first year's business of \$10,785,575, you have about \$7,700,000? A. Yes.

Q. Which the new business of that year has cost over and above what has been collected out of its premiums for the purpose of defraying the expenses of that year? A. Yes.

Q. And in these expenses charged against the business of the first year you have not included any of the general expenses of management, I understand? A. I think not.

Q. Only the expenses which pertain to the acquisition of the business? A. I believe so.

*Testimony of Rufus Wells Weeks*

Q. Direct expenses in payment of commissions and indirect expenses in connection with branch offices and small amounts?

A. Yes.

Q. That sum of \$7,700,000 which went to agents and others for writing that new business came out of the company's general accumulations, did it not? A. I would rather say that the reserve we had to put up came out of the accumulation. I think the whole ten million dollars came out of the thirteen million dollars. Of course these are matters of theory entirely.

Q. I think it is a matter of practice. A. The money goes into one box and comes out of the same box. You can say the ten million dollars comes out of new money or out of old money.

Q. The concrete situation is that on the 31st day of December, 1902, you have a certain amount of money secured for certain policy holders? A. Yes.

Q. And those policy holders have certain rights with reference to these accumulations. Now, in the year 1903, you paid to get new business ten million dollars, and the premiums on that business are loaded so as to contribute to the expenses of the year something over three million dollars and you have \$7,700,000 which out of your box, as you express it, has been paid to get the new business. That is right, is it not? A. Yes.

Q. Now, I understand that there are certain advantages in having new business. For example, the mortality rate on new and specially examined risks is somewhat lower, is it not, than it is on the average risks distributed over a long period carried by the company? A. Yes, but I do not consider that any advantage to the old policyholders because under the deferred dividend system the advantage of that would accrue to the generation of policyholders in which the saving happened.

Q. If under an annual dividend system you would consider it of some advantage? A. No, I do not think it would be. It would not offset the cost of new business.

*Testimony of Rufus Wells Weeks*

Q. I did not know but what you might suggest that there was a gain to the old policyholders in having paid out of the amount which has been received by the company from new business a less payment required on account of deaths than had been expected; in other words, a greater saving on mortality with the fresh risks than on the older risks? A. I do not think that is any net advantage.

Q. You do not think that is any net advantage? A. No, not against the cost of the business.

Q. Well, then there may be an advantage with regard to the lapsing of new business by reason of less being paid upon surrender values than had been calculated perhaps. Is that so? A. That would not accrue to the old policyholder under the third dividend system, it would accrue to the generation under which it happened.

Q. So you would not say there was any advantage to the company in that at all? A. You are speaking of the old policyholders?

Q. Yes, of the holders that exist at a particular time? A. No, I do not think it would.

Q. May I take one more year to see that there is any average to be pointed out——. A. Let me say there is one normal advantage to the policyholders in a large new business, and that is a decrease in the average percentage of general fixed charges. There are some things that are not increased in proportion. Some expenses are not increased in proportion to the volume of insurance in force, and those expenses ought to be decreased proportionately to the premiums as you get a larger business. For instance, you do not have to pay quite as high a rent if you have a thousand million dollars in force as if you only had five hundred million dollars in force.

Q. But these old policyholders have level premiums? A. Yes.

Q. And are paying a certain amount right along? A. Yes.

*Testimony of Rufus Wells Weeks*

Q. And the policyholders on your books to-day are going to pay a certain amount whether you write any new business or not?  
A. Yes.

Q. And your total expenses in 1904 were \$19,543,000 and of that expense of writing the new business of the year 1904, that is the direct expense in commissions and other expenses apart from the general expenses of management, amounted to eleven million dollars? A. Yes.

Q. In other words, the expenses of your company, apart from the expense directly attributable to new business in 1904, was only about eight million dollars? A. Yes.

Q. And you had a loading upon all the premiums, including the first year's business, of an amount practically the same as the total amount of expenses? A. Yes.

Q. Of nineteen million dollars? A. Yes.

Q. If you had had no new business written at all the loading upon the premiums of the old policyholders would have provided a large fund in excess of all expenses? A. Yes.

Q. And that is one of the gains which go to the old policyholders where there is a loading in excess of expenses? A. And it goes to them just the same.

Q. I understand it goes to them just the same, but the point is when you speak of distribution of expenses among the larger number, the man who is in and has to pay his premium will have to pay it, and the question really that concerns him is how much of the money thus paid into the company is going to be used for expenses? A. I do not think you get the point. The man that is already in, if by putting in another man he will have to pay a little less for rent, it is to his advantage.

Q. Let us see, the actual result of the getting the men in 1903 was taking out of the box in payment of commissions and expense directly applicable to getting the new men, \$7,700,000, and then you say you took that out of the box and later on as other

*Testimony of Rufus Wells Weeks*

men came in at a cost of \$7,000,000 in addition to what they pay, that will later make it good. In other words, we will pay this year \$7,000,000 to get new business over and above what the new business contributes to expenses, and then the bills we pay we will get even later on by having new men come in? A. Oh, the men themselves get even.

Q. I mean as these new men come in? A. It is not at all necessary that new men come in. The whole scheme could stop any moment.

Q. Why is that? A. Because the loading upon a premium upon the first year is a good deal more than the expenses after the first year.

Q. And if you stop writing new business to-day your expenses would instead of being \$19,000,000 a year be in the neighborhood of \$8,000,000? A. You say that, yes.

Q. And your loaning upon the premiums of about \$8,000,000 to provide for new business would still be between \$19,000,000 and \$20,000,000? A. Yes, sir.

Q. And the difference between eight million dollars, which would be the expenses in that case and nineteen million dollars or twenty million dollars which you would get in through the contributions to loading would be applicable to the payment of dividends? A. Not any more than if we had new business. It is only apparent.

Q. In other words to make up this apparent loss as you would have it at the first you have got to keep writing new business? A. No, sir. The dividends upon renewal premiums of the new business make it up themselves in about three years, so you see if we got a loading of 22 per cent of the premium after the first year and only paid expenses of eight per cent, we have fifteen per cent margin there to make up for the original outlay.

Q. Yes, but we have to stop some time in order to see what the effect of the continuance of these expenses in getting new business

*Testimony of Rufus Wells Weeks*

might be. We have to take a date to stop. Now, then, as we find to-day if you stop taking in new business you would decrease your expenses from about nineteen million dollars to about eleven million dollars, and you would have received through the loading upon the present premiums without writing any new business in the neighborhood of nineteen million dollars, and you would have the difference available for dividends? A. Yes.

Q. Now, you say it is important, or rather if you go on writing new business, that it will amount to the same thing in the end? A. Precisely.

Q. But suppose you do not go on writing new business and stop now, to test it, we find that the fact is that the expense of getting new business comes out of accumulations which otherwise would be distributable in dividends? A. No, sir.

Q. Why not? A. Because the dividend is precisely the same at the end of the time, ten or fifteen or twenty years, whether there is new business or not.

Q. And that is where the deferred dividend comes in? A. Yes, sir.

Q. That you can make these arrangements without allotting any particular dividend to special policies, that you can wait until you get to the end of a period, and then you can figure up what you think would be equitable and allot it to the group of policies then expiring? A. Yes.

Q. And in the meantime you keep the whole thing in the air as to what the policy holders are entitled to, and the new policy holders that are coming in are coming in at an expense far in excess of what they contribute to the expenses of the company? A. Well, theoretically—— That is simply because the State requires a reserve which is a fiction at the end of the first year.

Q. Of course, if you have a new company starting, the advantage of distributing your risk over a large number would of course be quite obvious and the advantage of getting new business



*Testimony of Rufus Wells Weeks*

until you had a large number of policy holders and could count on maintaining various averages would be very important?

A. Yes.

Q. Now, the question which arises in my mind is whether that exists to the same extent where you have a company with nearly two millions of insurance outstanding. Then you have a wide area over which to distribute your risks, have you not? A. Yes, sir.

Q. And then the question becomes a very important one as to how much the policy holders who constitute that company can afford to pay to get in new business, and at what point it becomes a loss to them. Now, you appreciate that? A. Yes, but it is not anywhere near a losing point in any company's business to the old policy holders.

Q. Where are the accumulations found that will be available for distribution at the end of a period among say a group whose policies mature, is it in the surplus? A. It must certainly be in the surplus.

THE CHAIRMAN: Can we stop here?

MR. HUGHES: Can I ask one more question?

THE CHAIRMAN: Yes.

Q. So that if in a given year you do not increase your surplus for any reason without criticism at all upon the company—but if for any reason the surplus is not increased there is nothing made that year which can go to feed this fund which will ultimately be distributed? A. This interim fund you mean?

Q. Well, any fund. You have not got it there, if you have not added to your surplus? A. Yes, that is right.

*Testimony of Rufus Wells Weeks*

Q. There is nothing there that the policyholders can receive by way of dividends over the amount which is put aside as dividends? A. It would not follow if there be anything earned that year by the groups which are not maturing.

Q. I understand that, but I say suppose you have forty million dollars surplus to-day and a year from to-day your surplus is forty million dollars exactly, and you have had no profits in the meantime, there is nothing made with which to feed the fund which will go to feed this accumulation which will ultimately be distributed? A. Of course, you are ignoring whether we have paid any dividends during the year. Of course, that will reduce the surplus.

Q. I am ignoring that. A. Then there would be nothing to feed this ad interim fund.

Q. Or any fund? A. There might be something to go to that as a part of the dividends payable to the policies maturing.

Q. What would it come out of? A. Out of their own premiums.

Q. You mean out of the reserve? A. No, I mean out of the premiums they pay themselves.

Q. You get in a certain amount of money, you have certain expenses. Now, then, you have certain liabilities which under the law you must maintain? A. Yes, sir.

Q. As representing your obligations under your policies. Now, what you get in by gains in various ways constitute your surplus? A. Yes.

Q. That is gains in mortality, gains in your loading for expense, gains in your investment in assets, whatever way you gain money over the theoretical amount which has been established to meet your obligations constitute your surplus? A. Yes.

Q. And whatever is going to the policyholder by way of dividend or otherwise has got to come out of that, has it not? A. Yes.

*Testimony of Rufus Wells Weeks*

Q. And when in a given year you do not feed that fund there is nothing that year at least made for the policyholder? A. Not for any group of policyholders you mean? There might be for one group.

Q. You mean who have been paid off? A. Who are to be paid off, yes.

Q. And come within your obligations discharged? A. Yes.

Q. I mean for the continuing policyholders? A. No, there is nothing.

THE CHAIRMAN: We will take a recess until 2.15 P. M.

## AFTER RECESS.

MR WEEKS, resumes the stand.

BY MR. HUGHES:

Q. We were speaking before recess of the accumulations denominated surplus. Now, I find that dividends to policyholders as stated in the insurance year book for 1903 were \$5,339,292; in 1904 \$5,899,481, an increase of about \$660,000; that the receipts of the company in 1903 were \$73,382,174 and in 1904 \$80,556,577, an increase of about seven million. That the expenses in 1903 were \$18,279,212, and 1904 \$19,543,146, an increase of about \$1,250,000. Can you explain why the dividends should have shown such a small increase? A. I do not know why they should be expected to show any larger increase.

Q. Well, without characterizing them, why is it that with the increase in receipts with the comparison of expenses which I have stated, that the dividends should have increased at the sum that they did increase at? A. Because the main part of the dividends were deferred dividends paid to policies issued fifteen or twenty years ago and the question of volume of dividends one year with another would really be with the conclusion of those two policies, that is the fifteen years issued in 1888 as compared with the fifteen years issued in 1889 and the twenty years issued in 1883 compared with the twenty years issued in 1884. They would have nothing to do with the current year's expenses or income.

Q. Have you any formula for determining how the surplus should be distributed? A. Yes.

*Testimony of Rufus Wells Weeks*

Q. Have you an exact formula that you follow each year?

A. Yes.

Q. Do you always make the distribution in the same manner and upon the same terms? A. No, I would not say we always have.

Q. How do you vary it? A. You refer now to the annual dividends or the first dividends?

Q. The first dividend and distribution at the end of periods in the manner you have stated. A. There has been no substantial change in the manner of the deferred dividends.

Q. Just explain what your method is, please? A. The method is to take a twenty-year period, for example, which is in its nineteenth year, to go back and take the history of the whole twenty years, taking the average rate of interest earned in that time, the company's mortality experience from year to year, general mortality, and the expenses which it actually cost to get that business at the beginning, and the average renewal expenses since, and then to find out what the share of each kind of a policy and the age of issue would be, making up a model account. For instance, take an ordinary life policy.

THE CHAIRMAN: Speak a little louder, please.

THE WITNESS: And then after finding these ratios that represent the history of the twenty years, we take a certain age, for instance we take, every fifth year, 25, 30, 35, 40 and so on, of issue, and each kind of policy separately, 20-year payments, ordinary life, 20-year endowments, take one of these, for instance, 40-year ordinary life. We will assume 10,000 policies were issued twenty years ago. We know what the ordinary rate of mortality would be on those and the general discontinuance rate, that is, so many per hundred would lapse each year, and we make up a model account representing the history of a group of policies, income and

*Testimony of Rufus Wells Weeks*

disbursements, premiums received, so many each year, expenses so much, death losses and surrender values paid so much. There you would have on one side the income and the other the disbursements for this imaginary account, and at the end you would have a certain amount as the fund on hand of excess over all disbursements, so much, and there would be so many policies left out of the 10,000 to start with—of course, this is a supposition—and then you divide the total fund by the amount of policies left, and you have your standard cash value, as we call it.

Q. Have you the actual calculations which you made at the end of 1904 to determine what should be appropriated for policies then maturing? A. Yes, sir.

Q. And have you your actual calculations for 1903 and 1902? A. Yes.

Q. We would be glad to have you produce those, if you will. A. Those three years.

Q. Is there any consultation among actuaries of various companies to determine the manner in which the surplus shall be distributed at the end of the year? A. I was never present at any such consultation.

Q. Have you ever made any inquiries of any actuary as to what another company was going to do before making any distribution yourself or calculating it? A. I don't remember making any such inquiries.

Q. Did you have an interview with Mr. Van Sise of the Equitable in regard to that? A. I remember talking to him as to his probable dividends for next year, but I don't remember whether it was in connection with—

Q. When was that? A. I don't think I could tell now.

Q. Was it within a recent period? A. I should think it was within two or three years, I should say.

Q. Was it last fall? A. I could not say, but I do not think so.

Q. Did you make any remark to him that you would like to

*Testimony of Rufus Wells Weeks*

know what dividends the Equitable were going to declare or apportion? A. I don't remember it.

Q. Did you make any remark to him with reference to the desirability of having the companies make substantially the same showing? A. I don't recall that either.

Q. Will you say that did not take place? A. No, I will not.

Q. I notice that the surplus at the end of 1904 was stated in the insurance year book of your company to be \$47,528,140, and at the end of 1901 \$49,262,118, showing that the surplus at the end of 1904 was about \$1,700,000 less than it was at the end of 1901. Can you explain that? A. That is partly due to our not counting the market value of bonds over book value. At the earlier date we used to count into our assets the market value of our bonds.

Q. When did you cease to do that? A. I think December, 1903. I may be wrong. It may be 1902, but I think 1903.

Q. Well, I find that the surplus at the end of 1903 was \$47,-105,047, or \$2,100,000 less than at the end of 1901. Can you explain that? A. I suppose that must have happened at that time. That is, the marking down of the bonds to their book value must have happened at that time.

Q. And that accounted for about \$883,000 as shown by the letter that has been introduced in evidence? A. No, I mean later than that letter. It must have been at the end of 1903 that we marked over the entire book value over market value.

Q. This letter refers to \$828,887, a decrease in market value of bonds over book value in 1902 as compared with 1901 which came out of the surplus earned during 1902? A. Well—

Q. Was there a further decrease owing to the same cause in 1903? A. Well, in 1903 we marked off that whole \$6,600,000.

Q. The whole amount? A. Yes.

Q. I see. Well can you explain why you marked off \$828,000 in 1902 and \$6,000,000 in 1903? A. Yes.

*Testimony of Rufus Wells Weeks*

Q. Why was it divided? A. Well, what happened in 1902 was that the actual market values decreased by that \$800,000, that is we counted our bonds at market value both times, December, 1901, and December, 1902, and the actual market showed a loss of \$828,000. That is a nominal loss of course.

Q. Then what exact amount was taken out of the surplus account at the end of 1903? A. At the end of 1903 we valued our bonds at the book value.

Q. What amount was that which was then taken from the surplus which otherwise would have been shown? A. Well, it was whatever amount the actual excess of market value over book values was at the end of 1903.

Q. Well, do you know what that was? A. I don't know now. It is easy to tell.

Q. Can you approximate it.

PRESIDENT McCALL: About two million dollars.

Q. Yes, I had heard it was about two million dollars.

THE WITNESS: It was more than that, was it not?

PRESIDENT McCALL: No, it was about two million dollars.

Q. Well, at end of 1903 if you had not marked off the excess of market value over book value the surplus would have been about two million dollars more than is reported or stated here? A. Yes.

Q. In that case it would appear to be, instead of \$47,105,047 about \$49,105,047? A. Yes.

Q. But the surplus at the end of 1901 was \$49,262,118, which would still be a little larger than the surplus at the end of 1903. Can you explain that? A. There is \$4,600,000 left out of that \$6,600,000, which was in the assets at the end of 1902. There



*Testimony of Rufus Wells Weeks*

was a market value loss of \$4,600,000, that is supposing the figures are really two million dollars, so that the entire loss on bonds for 1903 was \$6,600,000. That is the book loss.

Q. The book loss and the actual loss in value about \$4,000,000?  
A. Yes.

Q. And by the removal from the account about \$6,000,000 less in the statement of surplus? A. Yes.

Q. Having marked off the excess of market value over book value at the end of 1903 in computing your surplus for 1904 you computed it without any reference to the increase or decrease in the market value of securities as compared with book value?  
A. Yes.

Q. That would be a surplus then gained for 1904 from an advantage in the actual mortality over expected mortality and from lapses and other normal insurance sources? A. And interest.

Q. And interest? A. Yes.

Q. And that entire increase in surplus for 1904 was apparently only \$423,000? A. You have to add to that the dividend we paid.

Q. Yes, but that was for the maturing, as I understand, of the policies maturing in 1904? A. Well, it came out of the \$47,000,000 at the beginning of the year.

Q. It came out of what you had at the beginning of the year, and it left your surplus, after meeting those obligations, \$423,000 larger than it had been for the year 1903? A. Therefore, if you want to know the net surplus earned for 1904 you have to add to that the amount of dividends we paid during 1904?

Q. Yes, but the amount of dividends you paid during 1904 was the amount you were liable for under your contract, was it not?

A. It was part of the \$47,000,000. You must subtract that and then subtract it from the \$49,000,000.

Q. Yes, but the amount which was accumulated for the benefit of the policyholders whose contracts did not mature in 1904 was

*Testimony of Rufus Wells Weeks*

exclusive of whatever gain there may have been in market value over book value \$423,000? A. No. I think it was about \$6,000,000, because the \$47,000,000 did not belong to the policies which did not mature in 1904. Some \$6,000,000 belonged to policies maturing in 1904. Those you must first subtract, then you have \$41,000,000 applying to those which were not to mature, and then you have \$49,000,000 which they still had at the end of the year.

Q. The policyholders whose policies were not to mature in the accumulation to which they were entitled had a gain of \$423,000?

A. No, a gain of about \$6,500,000 as near as I can figure it.

Q. Your point is that of the \$47,000,000 at the beginning of the year 1904 some \$6,000,000 belonged to policy holders whose policies were maturing in that year? A. Yes.

Q. And that in the year 1904 you made enough to pay that \$6,000,000 and accumulated \$423,000 besides? A. You must understand that that is more than actually came out of the \$47,000,000. It was part of the \$47,000,000, therefore there was \$41,000,000 left at the end of the year which belonged to the policy holders who did not mature in 1904. At the end there was \$49,000,000 belonging to the same policies.

Q. Except that \$6,000,000 belonged to the policy holders whose policies were to mature in 1905? A. Yes, but it was a part of the \$41,000,000.

Q. You always have that amount, I suppose, in the neighborhood of \$6,000,000 which will mature in a given year? A. Yes.

Q. But the net increase in the accumulation after allowing for the payments of the contracts that mature in a particular year was \$423,000? A. Yes, after allowing for the payments.

Q. Yes. Of course, when we speak of a gain in surplus at the end of the year you mean to consider a gain which exists after you have paid the obligations of the year, a net gain in other words? A. No, that is not right, because whatever part of your surplus you have declared as dividends really is not a part

*Testimony of Rufus Wells Weeks*

of the surplus. It ought to be taken out at once, and it in our statement. That is not our statement of surplus.

Q. Is not that your statement? A. No, we did not state any surplus at all?

Q. What do you do? A. We state what we owe in dividends for the next year, what has been declared, and then what we have set aside for dividends in future years.

Q. And what do you call the balance that remains? A. Reserve to provide for other contingencies.

Q. Is that a designation of a reserve or fund that exists over and above the legal reserve? A. Yes.

Q. You call it a reserve to provide for future contingencies? A. For other contingencies.

Q. Now, can you tell me what proportion of first year's business lapses and does not persist or continue for a second year?

A. Well, I should say from twenty to twenty-five per cent.

Q. Well, what proportion of business written in a given year will continue for two years according to your experience? A. I think about three per cent. drops out at the end of the second year.

Q. I notice that the new business for 1904 amounts to \$345,-722,523, but that the amount of insurance in force at the end of 1904 is only about \$180,000,000 more than it was at the end of 1903. A. Yes.

Q. Now can you state what proportion of the business that lapses is business that has been written within five years? A. I could not state offhand.

Q. You can give us the statistics which will be definite on that head I suppose? A. Yes.

Q. What I want to get at is this: I want to know to what extent the business written in a particular year persists, so as to in any way make good the expense which the writing of that business has involved? A. Yes. I can give you a statement

*Testimony of John A. McCall*

of just what our experience has been, tabulated for the last twenty years.

Q. Yes, I should be very glad to have that so we can see just to what extent the old policyholders suffer by the rate of expense at which the new business is obtained? A. Yes.

BY MR. McKEEN:

Q. Mr. Weeks, counsel to the Committee, and the Committee direct, have received a great many requests from policyholders to investigate the comparative results between different classes of policies, it being claimed by very many that injustice is done to one class—that generosity is shown to one class at the expense of other classes. Now, I wish simply to put upon the record and state to the Committee that it is the view of counsel that those matters can be more satisfactorily gone into after we have ourselves made certain tabulations and pursue this investigation as to the affairs of certain companies, and that is the reason we now abstain from putting to you a great many other questions along those lines. We shall expect to get your help in the elucidation of those questions later. A. Yes, sir.

JOHN A. McCALL, resumes.

BY MR. McKEEN:

Q. Can you later furnish us with more details as to the data upon which you claim the premiums or liens are calculated for impaired lives? A. Surely.

Q. You can furnish us with such tables as you have upon which you predicate the adjustments in those cases? A. Yes, I can.

*Testimony of John A. McCall*

Q. There is one other question which occurs to me to ask, not immediately connected with the subject that has been pursued, but something that occurred to me in connection with your testimony the last time that you appeared before the Committee. You testified to having paid to Mr. Bliss a certain amount, or that you were cognizant of the payment of a campaign contribution, and approved of it. I want to ask whether in connection with that whether there was any intimation direct or indirect of a quid pro quo to the company from the Republican organization in consequence of that payment? A. Not the slightest statement of that kind was made, because insurance has been held not to be commerce, and how a Republican Government at Washington could help the New York Life is past finding out.

Q. My point was, and I understand your answer to be, that there was absolutely no promise or pledge direct or indirect given? A. Absolutely not, in any way, shape, manner or form.

Q. Was it the subject of suggestion, that as a result, direct or indirect, of any such contribution, the Federal Administration would further Federal supervision of life insurance? A. It was never mentioned or event hinted at.

Q. As I said before, there are quite a number of statements that I have asked for along these lines, and I need not put them upon the records. A. Yes.

BY MR. HUGHES:

Q. Mr. McCall, speaking of this subject of campaign contributions, there was published the other day in one of the papers what purported to be copies of affidavits furnished by officers of your company to certain officials of the State of Texas, that no campaign contributions in 1896 appeared upon the books of your company and that these officers were informed and believed that none such had been made. Did you know of the making of those

*Testimony of John A. McCall*

affidavits at the time they were made? A. No, I do not recall the affidavits. The representative of Governor Culberson came to the office and said he was authorized to make certain inquiries about our business in connection with the campaign. I practically told him at that interview that while I was quite willing to give every information on the subject to him, yet it seemed to me that the New York Life was being struck at because of the very pronounced position of its officers during the McKinley election, and that I should have to think it over before giving him an answer as to whether or not I would let him come in and examine the books of the company. He went away. After he went away I made up my mind that he should do it, if he wanted to, and so a man in the employ of the company, not now with us, named Stewart Brown, went to see the representative of the Texas Governor and told him he was perfectly willing to have him come in and we would answer his questions. He said he preferred to make a report, so he came back. It was at the close of the year, and I never talked with him again on that subject.

Q. Did you give any instructions as to the furnishing of information from your books with reference to such contribution? A. I told the comptroller of the company to give this representative of the Governor all the information that he wanted from our books.

Q. Did you know that the books of the New York Life did not show that such a contribution had been made? A. No, I did not.

Q. You stated the other day that you had been unable to find in the books any reference to that contribution. Have you since been able to find it? A. That is true to-day.

Q. Can you explain how it is possible that such a contribution should be made without any trace of it appearing upon the books? A. No, I cannot explain it, except in this way, that the treasurer of our company was very largely interested in other corporations

*Testimony of John A. McCall*

and was a very pronounced man in his policy and was very active, if you will, in a business way in connection with political matters. How he arranged that payment I have not any idea, I never had but two conversations with him on that subject.

Q. What was the statement that the representative of the Republican campaign expected that the people connected with the New York Life, if you will, "You people," as they used the phrase—you people here should be interested in this sound money campaign and should help the sound money campaign along?

A. I talked with the treasurer of the company about that request and he said to me, "Then you wish me to handle it?" I said, "I would prefer that you would do it." And he said, "Very well, then, I will take care of it." About a month after that he said, "I think there will be no fault to find with what I have done in connection with the campaign." So I had every reason to believe he had paid, Mr. Hughes. I have no reasons to know how he did it.

Q. Well, we are interested not simply in the fact that the contribution was made for that purpose, but also in the question of how it was possible, under a proper system of bookkeeping in your office and proper supervision of your funds, for fifty thousand dollars to get out of the moneys of the New York Life without any trace being left of it. A. All I can say in regard to that is that I assume it went out. I don't know that it did.

Q. Is your testimony to the effect that the contribution was made then, simply based upon a surmise that Mr. Gibbs attended to it?

A. Just on the fact that he said to me, "I think no fault will be found with what I have done under the premises."

Q. You made no concealment of the fact that the New York Life was making a contribution? A. I don't think it came up in that way. We made no concealment of the fact that the New York Life, through its officers, were doing all we could in the campaign.

*Testimony of John A. McCall*

Q. Did you turn over this inquiry of Governor Culberson to your legal department, to Mr. Hubbell? A. Yes, he afterwards handled it.

Q. Did Mr. Hubbell know, in fact, that a contribution had been made? A. No.

Q. Then you did not advise him that a contribution had been made. A. I did not.

Q. Did you know that Mr. Hubbell was getting affidavits as to the fact whether such a contribution had been made? A. Not as to the affidavits. I knew he was in touch with this representative and helped him examine the books.

Q. To see whether it had been made? A. Not as to the details I did not know.

Q. Did not you appreciate the fact that if the examination of the books did not disclose to this representative that such a contribution had been made that he would go away laboring under a misapprehension? A. No, because I felt and believe now, that that had been made, yet I could not swear to it and I could make the same affidavit now that our officers did at that time.

Q. But you could not make the same affidavit that the officers did to the best of your knowledge and belief that it had not been made? A. No.

Q. What information and belief had your officers on the subject when they said that to the best of their knowledge and belief it had not been made? A. I don't think that they had any idea on the subject at all.

Q. Did you have any interview with Mr. Banta regarding it? A. I don't recollect.

Q. Or with Mr. Thompson or with Mr. Whitney? A. No. I don't recollect any interview on the subject. It was the close of the year, in December, when it is the busiest time of my year and I am engaged until late in the evening and the whole thing was turned over to subordinates as many such things are. I



*Testimony of John A. McCall*

don't recollect that I ever discussed the question in any way, shape or form.

Q. Are we to assume that, this inquiry having been made and you having turned it over to the Legal Department that these affidavits were presented to Governor Culberson's representative, to satisfy him that no contribution had been made without any knowledge on your part? A. That the affidavits were turned over to him stating that?

Q. Yes. A. No, I have no knowledge of how the affidavits were turned over to him; I simply did not have any discussion with anybody on the subject that they were turned over to him. It was entirely within the Legal Department of the company and they acted.

Q. May we assume that you did not know that, whether in the form of affidavits or otherwise, Governor Culberson was informed that no such contribution had been made, to the belief of these officers? A. Well, that would be hard to say, that is, I could not assume a condition that was never brought to me in connection with the affidavits, that is I was not asked to make an affidavit, nothing was said to me on the subject, nothing was said to me on the subject at all by anyone connected with it, and if I were asked, if you will, by any of those people, as to what I knew about it, I could only tell them as I have told you now, that I believed a payment was made. I believe now a payment was made.

Q. Did you tell them that? A. No, sir, I did not. I was never interrogated on that subject.

Q. But you were interrogated on the general question, and you turned the matter over to the Legal Department to answer the interrogation? A. Yes, that was not the only one, there were half a dozen inquiries in this letter.

Q. What I want to get at is this, you expressed entire satisfaction with the course that had been taken and justified in your testimony the other day. A. I did.

*Testimony of John A. McCall*

Q. Were you in any way privy to the concealment of that in the affidavit or in the information which the officers of your company gave? A. Not at all.

Q. But you did not know anything at all about the information they gave? A. Not at all. I was in the position of a person who believes that the company was being struck at because of its attitude on the Free Silver subject. I was not in the frame of mind to trace through our books with this man to help him find **this thing**, because I understood that he was inimical. He asked us what we paid for our lunches and wine, and the whole attitude of the inquiry was one of attack on the New York Life.

Q. And you were satisfied to let him go without the information if he did not find it out from your books? A. Well, I was satisfied to have him do just as he would do about it, and then if he came to me and asked whether so and so was the situation I should simply have told him the truth, so far as my knowledge. I might say, Mr. Hughes, if you will, it is pertinent, that after these inquiries were made that again another inquiry was made as to how much the salary of each of the officers of the company was. That was the second inquiry that was made by the representative, and we answered that in detail with an affidavit, and gave him all the affidavits in connection with it, and the furnishing of that information was made the subject of an attack upon the company in the message of the Governor to the State Legislature, and it was used very generally by our competitors against us, and I am very happy to say in the end we did more business in Texas than we ever did before.

Q. You do not mean to imply that you did not think the State of Texas was entitled to information as to whether you had made **contributions for campaign purposes**? A. Yes, I do mean to imply very clearly that the Governor of the State had no authority to ask that question.

Q. And was it for that reason you were willing he should get

*Testimony of John A. McCall*

what information he could from the books and if he did not find it out there to go without it? A. No, not exactly that, but you may be very sure I did not feel very pleasantly toward him.

Q. Have you been able to find where the contribution of 1900 is upon your books? A. No.

Q. Have you ever tried to find it? A. Very hard. We have done everything we could and have them now looking over every account we have.

Q. Was that through Mr. Gibbs, too? A. Yes. I was in Europe at the time. I went in April and did not get back until October.

Q. How would it be possible for him to do that without having the transaction appear? A. I can only fancy one way, that in some transactions there might have been profits coming to the New York Life from operations, and that they were lessened.

Q. You mean the full amount not disclosed on the books? A. Yes.

Q. Well, has that occurred at various times? A. I do not say it even occurred this time. That is the only way I can imagine.

Q. Is it possible that has occurred repeatedly without your knowledge? A. I do not see how——.

Q. If it could occur once it could occur twice? A. I do not say it did occur. My answer is that I am told that is the only way that payment could have been made.

Q. We had two or three matters up the other day which I must examine you further upon, and you have made a very interesting statement during Mr. McKeen's examination as to your relation to legislation in various States and the attacks that were made upon insurance interests by projected legislation. Now, I would like to have you state comprehensively just what you do to meet such attacks? A. Well, the organization of Judge Hamilton's Bureau, wherein he was entrusted and put in charge of the legislation in the United States and Canada, in its entirety—all the

*Testimony of John A. McCall*

bills introduced every year he had gathered in his own way; he had statements made of all proposed and introduced and passed upon legislation and there was constant consultation about the laws that were offered. I might say in five years there were over seven hundred laws relating to life insurance in the past five years, and all of that means—he took hold in 1895, if you will, and in 1892, 1893, and 1894 there were constant clashing as to the bills in the various States. This agent would write in and say, from Texas, that the best man in connection with a bill was John Doe, and another agent would suggest Richard Roe, and there was a constant suggesting and iteration and reiteration of names until the accounts could not be handled at all to anybody's satisfaction. The details were tremendous and for that reason the Bureau was organized in 1895, giving Judge Hamilton absolute and entire control of all legislation introduced in the United States and Canada.

Q. Now, I have asked you to produce a statement of the payments to Judge Hamilton. Have you produced it? A. Yes, sir, I have that. I think you asked it for five years.

Q. Well, that will answer the purpose. A. That is a very rough statement. Under the head of Hamilton you will find payments made to him.

MR. HUGHES: I offer it in evidence.

(Paper marked Exhibit 238 and read by Mr. Hughes.)

Q. This is the first total law expenses? A. Yes, the second column.

Q. You were saying a moment ago that these payments were not in addition to some other payment. What did you mean? A. I said the payments to Judge Hamilton were included in the first column.

*Testimony of John A. McCall*

Q. That is, the payments were part of the amount stated to be for law expenses. A. Yes.

Q. Now, do you desire in any way to modify or correct the statement made by you the other day that for the moneys paid to Mr. Hamilton you have no voucher except his receipt? A. That is all.

Q. That applies to this total \$476,927.02? A. It does.

Q. Now, this does not include payments made to Mr. William A. Moss, does it? A. No, Moss is paid separately. Moss is a registered accountant in Massachusetts of the company.

Q. Are the payments made to Moss included in the grand total of law expenses here stated? A. Yes, sir, they are.

Q. For how long a time has he represented you? A. For about three years, Mr. Hughes.

Q. Has the New York Life, or has any agency of the New York Life, by the use of any funds of the society, either in the agency or otherwise, contributed in any way to the expenses of Mr. Moss' campaign for the Senate in Massachusetts? A. Never.

Q. Not a penny? A. No, sir, never heard of such a thing.

Q. You have heard, of course, that he had a very vigorous contest for election at one time? A. Why, I really don't know anything about it.

Q. You really don't know anything about it? A. No, sir.

Q. Do you always, in dealing with men in States where your desire is to prevent legislation, deal with attorneys and counsel? A. So far as the company itself is concerned, they do. That Hamilton did I do not know.

Q. Was Mr. Hamilton supposed to deal with the man who could produce results? A. I think he was, Mr. Hughes.

Q. Whether he was an attorney, or whether he was any other man? A. The best fellow he could find.

Q. The other day reference was made by a witness from the Equitable Life to an arrangement that was made for dividing

*Testimony of John A. McCall*

the territory between the representatives of the New York Life, the Mutual and the Equitable. Were you cognizant of the fact that such arrangement was made? A. No; know nothing at all about it. Hamilton was retained by us for the entire United States and Canada. I do know that he consulted with the Equitable, Mutual and other companies regarding legislation.

Q. But he had entire freedom in that respect? A. He had entire freedom.

Q. In other words he could arrange with the other representatives of the other companies to divide the territory as he pleased? A. I think he could, yes, sir.

Q. And to employ whomever he pleased? A. Yes.

Q. And to do whatever he thought was necessary to prevent the attacks which you feared? A. Yes, sir.

Q. Did you ever meet Mr. Thummel? A. I did.

Q. Have you ever had any talks with him about steps which should be taken to prevent threatened legislation? A. We retained him in two instances, one in Iowa on a tax case at the request of Judge Hamilton, and I think he has received fees from us on two occasions amounting to about \$6,000.

Q. What two occasions were those? A. One was the Iowa case, and the other was relating to the Federal legislation at Washington.

Q. When was the latter? A. I think it was in the last two years.

Q. Well, will you explain why it was with the counsel you have at your command you should employ Mr. Thummel to represent you in Iowa? A. The statement regarding that was that Thummel was absolutely the best man to handle the Iowa situation, and that he would be sent up to talk with me about it, and he did, and I found him very well equipped with regard to the intention of the people, and the people who were urging it and

*Testimony of John A. McCall*

what should be done about the policy holders and so on, and so we preferred to retain him direct.

Q. Did he go out to Iowa on that? A. He did.

Q. And he represented other companies besides yours? A. I believe so.

Q. Represented the Mutual? A. I believe so.

Q. And the Equitable? A. Possibly.

Q. And what was the result of his mission? A. I think it succeeded.

Q. In what? A. In defeating the tax of 3 per cent.

Q. Defeating a bill for that purpose? A. Yes, sir.

Q. You say a couple of years ago he was retained with regard to the proposed legislation for Federal supervision? A. Yes.

Q. Is he still under retainer regarding that? A. No; he is not.

Q. That was for a particular occasion? A. Yes, sir.

Q. And what was the occasion, what was he to do? A. Well, he seemed to be better acquainted with the people at Washington than anybody that Judge Hamilton could suggest, and so he went to Washington and I think devoted himself to the introduction of this bill. It didn't pass finally, didn't amount to anything, and I think his retainer——. I think it was \$1,600.

Q. Do you know why he should be retained? A. No, no other reason except he was a man very largely acquainted in Washington. I don't know any other reason.

Q. And in that he represented the other companies, I suppose, as well? A. Well, yes, I think he did.

Q. Do you know of any contributions having been made by insurance companies to Congressional committees,—I mean to campaign committees? A. Never heard of such a thing.

Q. You yourself have had dealings sometimes with men in different states, have you not? A. Yes.

Q. In regard to these matters? A. Yes.

Q. With whom? A. Well, with the officers of the companies

*Testimony of John A. McCall*

as a rule, they would come to New York, they would talk about the legislation in their States, and like Mr. Paterson, of the Union Central Life, and Mr. Merrell, of the Northwestern, all men having the same interest that I did against the attacks that were made on the companies every year and any person to represent us.

Q. Mr. W. J. Holden's name was mentioned the other day by one of the witnesses as representing insurance interests in Massachusetts? A. Yes, sir.

Q. Do you know him? A. No; I never met him. He was retained by Mr. Moss.

Q. Is he an attorney? A. No, I think, Mr. Hughes, under the Massachusetts law, he does not have to be.

Q. He was not retained then to perform legal services? A. No. If he were an attorney I should say yes, but if he were not, under the Massachusetts law you have a right to register anybody, either an attorney or an agent.

Q. I am talking now as to whether he was employed with reference to proposed legislation in Massachusetts? A. Oh, that was the sole purpose of employing him.

Q. Now, did you have Mr. Holden under a regular retainer? A. He got \$3,000 for three years.

Q. For how long a period was that? A. Three years.

Q. And when, during what period? A. Say three years ago, say 1901, 1902 and 1903, or 1900, 1901 and 1902.

Q. Was he paid by Mr. Hamilton or paid direct by the company? A. No, he was paid direct.

Q. Now, where do the amounts paid to Mr. Holden figure in your accounts A. They went to the law expenses.

Q. And they are part of these totals that you have given here? A. They are.

Q. Now, you met Mr. Holden from time to time, didn't you? A. I don't believe I ever saw the man.



*Testimony of John A. McCall*

Q. You had correspondence with him? A. No, never.

Q. What did you understand that he was to do in Massachusetts? A. Well, the Massachusetts law, as I say, required you to register everybody appearing in relation to bills before the Legislature, and whatever he did in that respect I think he would write to the law department of the company and notify them what was going on, and generally keep them posted, I suppose, with what was occurring in the way of proposed legislation and legislative discussion.

Q. And see that legislation that was not proper legislation in regard to the policyholders should not pass if he could prevent it? A. That is what he was retained for.

Q. You are conversant, I think, with the legislation in various States sufficiently to know that men in a position to deal with such matters frequently represent a great many interests, not only insurance interests but other interests? A. I assume that to be so.

Q. And they are in a position, by knowledge of such matters and pressure that they can bring to bear upon men ordinarily to prevent the reelection of a man who opposes their wishes? A. Well, I think he might be instrumental in doing it.

Q. It is pretty well known that that is a case, isn't it? A. I think that is so, Mr. Hughes.

Q. So that the right man retained in a particular case is in such relation to matters can perhaps prevent legislation which you deemed inimical to your company? A. I believe he could.

Q. And the man that balked him or went against his wishes would probably go out of politics? A. Well, I wouldn't want to go as far as that.

Q. Well, those are matters pretty generally known, aren't they? A. His position might be strained.

Q. And frequently the fact is that it is only necessary to re-

*Testimony of John A. McCall*

tain the right man without spending any money otherwise? A. I think that is the sole object, to get the right man.

Q. Now, has any money been paid by the New York Life to William H. Buckley? A. Yes, sir.

Q. In what way? A. \$7,500 a year for two years, and I think he got \$2,600 more than that a year. Not as much as that; about \$2,200.

Q. Is he—— A. He is retained by the company.

Q. As counsel? A. Yes.

Q. What does he do? A. Well, Mr. Buckley was formerly connected with the Insurance Department, and he knows all the insurance officials of this date. We employ him to go wherever we may direct about anything that might occur as to the company's interests, anywhere. If I want to find out—I am telling some things now that may be of injury to the company—but if I want a report confidentially of some man connected with the company in some capacity it is his business to give that to me.

Q. This is the total amount that you have paid him? A. Yes—we have never paid him any more money than that.

Q. Does he get money from Mr. Hamilton? A. I have never heard of it. I don't believe he ever did.

Q. Has the New York Life paid any money to A. G. Field? **A. Never.**

Q. Have you ever had any interviews with him? A. Never—with Mr. Field?

Q. Yes. A. Yes. I know Mr. Field.

Q. In regard to what matters? A. Well, I haven't seen him probably in four years—seen him twice, but I knew him when I was in Albany, and was very active in the Democratic State Committee and in his work, and I knew him accordingly.

Q. I find that in Mr. Hamilton's bank account with the Albany Trust Company that on September 1, 1905, there was deposited to his credit \$162,041.67. Do you know whether at or about that

*Testimony of John A. McCall*

time the New York Life paid him any money? A. About September 1st, Mr. Hughes?

Q. Yes. It is deposited to his credit, September 1st of this year, \$162,041.67? A. On September 1st? He has had no money from us this year except that which he gathered from an assignment of the Tax Claims Law and that amounted to about \$90,000.00.

Q. I see? A. One-third of \$270,000.00.

Q. Will you kindly explain what you mean by the assignment of this tax claim? A. Yes. I am not so sure that my last statement—I think I did refer to the fact that he had been employed in relation to the taxes.

Q. Yes; you have explained that? A. Well, the New York Life had taxes paid in this and other States of the Union about \$416,000 in the year 1902, that was taxes for the first time on the 1901 receipts, 1903 and 1904.

Q. Go on, Mr. McCall? A. In the year 1901 a tax law was passed taxing all the life insurance companies for the first time on their premium receipts, and the payment of which was made in 1902, and so on down to 1904. In talking with him one day, he said, "I do not believe that this tax act is worth what it is written on." I said, "That was something to think about." He said, "No, and I believe if we could carry it up to the highest court of the land that we would get a decision that the State of New York had no right to tax a contract that was made prior to the passage of the act," and we made an agreement with him that he should take hold of the case, and I didn't care to act as the—for the New York Life—didn't care to act as the party in the suit, and so the Provident Savings of this city was made the complainant party. The case was carried to the Court of Appeals of New York and decided in October of 1904, and Judge Hamilton won the suit. It made a difference of one million dollars to the three great companies of New York in the matter of taxa-

*Testimony of John A. McCall*

tion. We agreed with him—the New York Life did, at least—that we should give him one-third of the recovery made from the decision in the event that the decision was favorable; and he should have no fees whatever in case he lost his suit. Pursuant to that the New York Life this year has paid no taxes to the State of New York, and for his remuneration he took an assignment of our claim of the moneys with the Comptroller of the State to the extent of one-third of the allowance, and that \$90,000 he obtained through the assignments. He was not here, of course, in September. I suppose it was done in his office. That is the only moneys that I can think of in that one hundred and sixty thousand dollars.

Q. This litigation was started in 1902, was it not. A. I think that is the year.

Q. In other words, proceedings were begun by the Provident Savings Company in 1902 for the purpose of showing that contracts made before the passage of the act were not subject to this tax? A. Yes.

Q. And who was the attorney at the beginning of that proceeding? A. I think Mr. Edward E. McCall.

Q. Did you have any contingent arrangement with him? A. Yes.

Q. The same contingent arrangement? A. It was the same thing. After he went on the bench Judge Hamilton took his interest in it.

Q. So that the original arrangement was made with Judge McCall when he was a solicitor? A. Yes, and Judge Hamilton; they acted together in the case.

Q. It was a matter, as I understand it, of statutory construction. The tax imposed was upon premiums? A. Yes.

Q. And the question was whether it was premiums upon contracts made before the passage of this act? A. Yes, sir.

*Testimony of John A. McCall*

Q. Which was the construction of the department? A. That was it.

Q. And the tax had been made on that basis? A. Yes.

Q. The matter was taken before the courts; do you remember how it was decided in the first instance? A. Decided in the lower courts in each instance against the company.

Q. And in 1903 it was before the Appellate Division, which confirmed the decision below against the company? A. That is right.

Q. Up to that time Judge Hamilton had had nothing to do with it so far as his appearance in the case before the courts is concerned? A. I think not.

Q. The argument was not a very extended one, was it? A. Well, I read the brief in the cases. I thought they were very thoroughly tried.

Q. Thorough and complete and very effective, but the argument necessarily lay within a small question, determining the construction to be placed on this act? A. Yes.

Q. There was no evidence in the case? A. No, sir.

Q. And the record was a short one; it was a legal proceeding of a petition? A. Yes; not very long, I think.

Q. Now, can you explain why it would not have been appropriate for the New York Life Insurance Company with this case, admittedly of importance and with a question of law to be reviewed, to employ one of its counsel upon the usual terms to bring the proceedings and make the argument, for reasonable compensation? A. Well, frankly, Mr. Hughes, the New York Life would not care to appear as the plaintiff in the transaction.

Q. Well, that could not furnish a reason why, from its desire not to appear as plaintiff, it should make a contingent arrangement to give a third of the recovery? A. I think the arrangement was a very excellent one, if you will permit me to say it, and we ran no risk. He agreed to take the case to the highest court; he found

### *Testimony of John A. McCall*

a client in another state, two or three of them at least, and the arrangement was if he did not win his case he was not to get anything, and if he did win it he should have one-third of the recovery.

Q. Of course the New York Life as an institution of dignity and power and ample resources if it thinks a question of law should be reviewed is in a position to review it, even though the decision is against it? A. Yes.

Q. And upon the usual terms of compensation. Now, did the Provident Life pay for the services rendered to it? A. That I don't know.

Q. Or did any of the companies that were interested in it pay for the services? A. That I don't know.

Q. When Judge Hamilton, after Judge McCall went on the bench, took charge of the case it was in the Court of Appeals and he argued the case and I presume wrote the brief and appeared before the court as the record shows and the case was won? A. Yes.

Q. Now, as the result of the winning of that case there was a rebate to which the company was entitled by virtue of the taxes therefore paid upon an erroneous theory of the sum of \$272,703.-27, including principal and interest? A. Yes; in the State of New York.

Q. And upon that under this agreement Judge Hamilton was entitled to one-third, or something like \$90,000? A. Yes; that is a summary of it.

Q. Did you make any inquiry as to what that litigation could be conducted for either through somebody else's name or directly by you without the making of a contingent agreement? A. No; I did not. I thought it was a very good arrangement for the company to make, that if it could save two-thirds of the taxes paid to the State of New York and didn't have to pay any expense in connection with the suit, that we had a very good agreement.

*Testimony of John A. McCall*

Q. Judge Hamilton at that time was, of course, under the regular retainer of \$10,000 a year? A. Yes.

Q. Judge McCall was under a similar retainer? A. Yes. He was in charge of the real estate and mortgages, and had a retainer, too, Mr. Hughes.

Q. Now, this amount payable as a refund by the State was paid apparently in this way. On April 5, 1905, you were credited the full amount of the tax of \$119,226.62 for the year 1904—. A. Without paying any money.

Q. Without paying any money. Then it appears from the records furnished me by the State Treasurer that an additional amount was credited, amounting to some \$42,386.47 to various companies, to the Commercial General Life, the John Hancock, the Northwestern, the Phoenix Mutual and the Travelers and these amounts were credited again against what would be payable to you? A. Yes, under an assignment.

Q. That is you assigned parts of your claims to them? A. Yes.

Q. Well, what was that for? A. There is a law in this state which permits a corporation having overpaid its taxes to assign to another corporation, and in that way Hamilton got his fees, without our paying anything to him.

Q. So that the credits to which you were entitled to the extent of this \$42,386.47, and also to the extent of \$48,000, making a total of \$90,386.47 were assigned to various companies to be used by them to offset their taxes? A. That is right.

Q. And then they paid the face amount to Judge Hamilton or to you—probably to Judge Hamilton? A. No, not to us. That assignment was filed by the State Treasurer to pay their respective taxes.

Q. Exactly, and they of course had to pay you for the credit that obtained? A. They didn't pay us.

Q. They didn't pay you, but they paid Judge Hamilton? A. Yes.

*Testimony of John A. McCall*

Q. And in that way he got his money? A. In that way he got his money.

Q. So it was not a payment direct by the State to you and you to Judge Hamilton? A. No, sir.

Q. But a credit allowed by the State to others who paid Judge Hamilton. Now, then, it would seem, according to this, that Judge Hamilton had received the full amount of money? A. He certainly has in that instance, yes, Mr. Hughes.

Q. And there still remains out of this total of \$253,323.27 a balance to which you are still entitled to credit by reason of the refund of \$63,090.18? A. Those are the figures, I think.

Q. Now, I understood you to say the other day, that Judge Hamilton when he went away, or at some time in the summer, referred to the amount to which he was entitled from the company as an offset to the \$235,000 we were speaking of? A. Yes.

Q. Apparently he got this amount without using any part of that as an offset? A. Yes; he did. But, Mr. Hughes, beyond the amount that was coming to him from the State of New York, our total premiums involved in that transaction were \$413,000 in other States. Under the reciprocal law the Attorney General made a decision that this decision of the Court of Appeals applied to the companies of other States, and we had \$140,000 of such claims, of which he was entitled to \$44,000.

Q. So that his fees in this matter through this decision amounted not to \$92,000 but to \$196,000? A. \$90,000 in this State and \$40,000 in the other five States.

Q. Having a similar contingency arrangement as to those? A. On the recovery.

Q. Now, has he received that amount? A. No; he has not.

Q. So when you referred the other day to having some eighty or ninety thousand dollars to offset you didn't mean that? A. No.

Q. You meant some \$44,000 to offset? A. Did I say \$80,000?

Q. I am under the recollection you said about \$85,000? A. I



*Testimony of John A. McCall*

think not. I think I said the balance was \$75,000, made up of this \$44,000 and his bills unpaid.

Q. You intended to refer to those other matters? A. I intended, of course to refer to the tax matter, just as you are reading there. That involved all those other States—Connecticut, Massachusetts, Illinois and New Jersey.

Q. And how much did you figure would be coming to him this year? A. About \$45,000 coming from taxes, and I assume his bills this year will be \$120,000.

Q. \$120,000? A. Yes, sir.

Q. Making a total of about——. A. About \$160,000, which would leave, according to your estimate, about \$75,000 or \$80,000 if such an offset were allowed? A. Yes, sir.

Q. Well, now we find that these amounts do not amount apparently to this \$162,000 that was deposited on September 1st, except his getting his fees. You think he may have put it in that account? A. Well, September 1st, he was not here and therefore I can't conjecture as to what that \$162,000 is.

Q. The only point I want to ask you in regard to it is whether the New York Life on or before September 1st, apart from this interest payment, paid him any money? A. Not a dollar this year.

Q. Not a dollar? A. No.

Q. I find that on June 23d there was deposited to the credit of Mr. Hamilton in the Albany Trust Company \$34,102.16, and on June 24th, \$21,961.93. Did the New York Life pay him any money at that time? A. The New York Life has paid Judge Hamilton this year \$12,664.90, and not another dollar.

Q. Of course, this account you hand me refers to what payments have been made under law expenses? A. And there are no other payments. He has had nothing else.

Q. The other day you know we found the \$235,000, which does

*Testimony of John A. McCall*

not figure there. A. That wasn't in this year? I am referring to this year.

Q. And the fact that there were such items leads me to ask whether there was anything outside of this. A. No, sir there was not.

Q. And you know nothing about the source of these moneys? A. I do not.

Q. Now, I merely want to ask you just an additional question, if you at any time had any conversation with Judge Hamilton or with anybody else in which you have gained any information as to what was done by Judge Hamilton with the moneys which you placed in his hands for the purpose of avoiding any undesirable legislation? A. I have absolutely no knowledge whatever.

Q. In this State or anywhere else? A. Or anywhere.

Q. Now, you say you had no knowledge. Of course, you did not mean—— A. I mean a general knowledge, but not specific knowledge, that he ever paid anyone one dollar for any improper purpose or any wrong purpose or any other interest than to protect our interests in this State. I mean about bribery or buying legislators. I wish to be emphatic about that. That never was discussed between us and nothing of that kind was ever mentioned.

Q. Did you have any information as to what was done with it? A. No; except as I tell you he was given the entire United States and Canada to manage in this direction, and all I know was he performed his duty to the best of his ability.

Q. Now, have you from time to time given Judge Hamilton orders directed to branch offices, or agency offices of the New York Life, telling them to supply Judge Hamilton with money?

A. That is the way he got his money. During the year he would make up his accounts, I fancy from the statements, that we got, and say now I am going out to settle my indebtedness, and he

*Testimony of John A. McCall*

would get orders on our branch offices, with an order to pay him say \$200,000 in Illinois, or \$200,000 in Wisconsin, and that is the way he procured his money.

Q. Those moneys went through the branch office account?

A. Yes, and they are in these sums.

Q. Oh, they came back to the home office? A. Charged to law expenses.

Q. So these accounts from the branch offices, when they come up, are ledgerized by you and distributed so the books will show all the money that advanced through the branch offices to Judge Hamilton? A. Yes, sir.

Q. And the purpose for which it was used? A. Every dollar.

Q. Did you direct the agencies of the New York Life through various States to give Judge Hamilton any money in cash?

A. No; I would direct them to pay on this warrant. He would take with him his receipt for a thousand dollars or two thousand dollars and that he would take to the branch office and get the money. How he got it, whether in cash or in checks, I don't know.

Q. Did you supply the branch offices with any information as to what this was to be used for? A. Never.

Q. Or did you provide for their receiving any voucher other than his receipt? A. That was all.

Q. Didn't you get from Judge Hamilton any information as to why he wanted, say in Rhode Island or Illinois, or Iowa——

A. No other reason in the world, but that he had his arrangement in all the States and would attend to them accordingly.

Q. And as he traveled around through the States, when he got to the point where he needed any money, he could go to the branch office with that order and they would give him the money?

A. That is right.

Q. Why wasn't the money given him at your office? A. I suppose the convenience of his going out and traveling to the

*Testimony of John A. McCall*

different places. He never had, of course, any order that permitted him to get all the money he wanted.

Q. If Judge Hamilton had wanted to use any of these moneys for the purpose of aiding in the election of a particular legislator or defeating the election of an obnoxious man, he could have done it without the matter being brought to your attention? A. He could have done it, yes.

Q. And you don't know anything about it, whether he did or not? A. I do not, Mr. Hughes; I don't think he used it for that purpose, however.

Q. You spoke of the Providence Mutual Life Insurance Company. That is a stock company, is it not? A. It is, yes.

Q. Do any of the officers of the New York Life Insurance Company own any stock in that company? A. Not one.

Q. It is in the New York Life Building? A. It is a tenant; that is all.

Q. That is all the relations any of the officers have to it? A. Except I am a policy holder.

Q. But you have no lien upon the stock? A. No, sir.

Q. Or option upon it? A. Not at all.

Q. Or any interest in it? A. Not the slightest, directly or indirectly.

Q. What led the company to locate in your building? A. Mr. Scott; I was formerly in touch with the Equitable, and when we got our building he said he would like to come and take rooms in our building and I was encouraging good tenants, and told him to come. There is no other connection with the stock, and no one connected with the New York Life is in any way connected with the stock.

Q. Now, my attention is called to the fact that these taxes, which were paid about October 1st, or September 29, 1904, for the year 1903, amounted to \$111,139.04. A. Yes.

Q. And this apparently was paid in two items, one of \$75,000

*Testimony of John A. McCall*

and one of \$36,139.04. Can you tell me whether the \$75,000 came from the New York Life directly, not going through Judge Hamilton? A. It was paid in a check to the Comptroller of the State.

Q. That \$75,000? A. Yes.

Q. But the entire amount of \$111,139.04 had been placed in Judge Hamilton's hands in June, 1904? A. Yes, it had.

Q. That exact amount? A. Yes, it had.

Q. Can you explain how it was that, if he had been provided with the entire amount to pay the tax, he only paid \$36,139.04 of it, and the company afterwards paid the \$75,000? A. Yes, Mr. Hughes, I can. In June the tax is payable of \$111,139.04. The case had been argued but no decision had been made and he came to the office one day and said, "I don't know whether we will get a decision during this term of the Court or not, and you may have to pay that tax," and so a check was provided for the exact amount of the tax and given to him. Subsequently he said to me, "Well, there is no decision handed down yet. I want permission to use of that \$111,139.04 such amount as will defray my bill for the rest of the year, and if I call on you for the payment of the tax later on I want such a sum of money as may complete the payment in case I make that use of it." He got the \$111,139.04 and no decision was rendered until October. Then when October came he said I have got thirty-six thousand or thirty-seven thousand, whatever it may be of the unexpended balance of the \$111,000, and I will need \$75,000 to pay that tax, and in that way the check was given to the State Comptroller and he paid out of his other funds the \$36,000.

Q. Now, at that time did you bring to his attention the fact that he had this \$235,000 in his hands? A. No, I never connected the two things together, Mr. Hughes.

Q. It is suggested that I bring to your attention your testimony that a great deal of work was done for you in appearing

*Testimony of John A. McCall*

before Committees of Legislatures. Will you explain how these bills which were inimical to your company, which have sometimes been called strike bills, could be defeated by appearance before committees, and arguments? A. Not necessarily a defeat, but I think the mere argument before a committee on a bill—I don't recall my exact testimony there, and even as you speak of it now, I would like to refresh my memory as to any statement I made at that time—but I think that any bill, whether it be good or bad, can best be shown up by a public discussion of its merits or demerits, as the case may be.

Q. Now, our attention has been called to a loan made by the New York Life Insurance Company to John R. Hegeman. A. Yes.

Q. Which, for a number of years—or I won't say a number of years, but for a considerable period, ran at the rate of  $1\frac{1}{2}$  per cent. interest. Will you explain with whom that loan was negotiated? A. With Mr. Gibbs, our treasurer, Mr. Hughes.

Q. Do you know why it was made at that low rate of interest? A. No, I didn't know it was made until after it was on the books of the company. My attention was not called to it, and nothing was said to me about it. Of course, Mr. Hughes, there is no question about the loan, is there? That isn't raised?

Q. No. The point is simply, how it happened it should be made at that rate of interest. A. I don't know.

Q. It is below the market rate for money for a large part of the time. A. I don't know. I had a loan, too, with Mr. Hegeman himself at a low rate of interest, and it was increased to 2 per cent. or  $2\frac{1}{2}$  per cent.

Q. You mean with the Metropolitan Life? A. With the Metropolitan Life.

Q. When did you get a loan from the Metropolitan Life? A. I think about two years ago; maybe two years and a half; I am not so sure about the date.

*Testimony of John A. McCall*

Q. Are you a director of the Metropolitan Life? A. I am.

Q. And were you at that time? A. I was.

Q. With whom did you negotiate that loan? I mean what officer representing the Metropolitan Life? A. Mr. Hegeman.

Q. Was that loan made first to you on January 22, 1903? A. I think that is the date.

Q. For \$50,000? A. Yes.

Q. And the rate of interest was  $1\frac{1}{2}$  per cent.? A. Yes; I think that is right.

Q. And then on January 22, 1904, it was renewed? A. Yes, it still exists.

Q. And this was renewed and ran through the year 1904 at  $1\frac{1}{2}$  per cent. rate? A. Yes.

Q. And on March 17, 1904, an additional loan of \$25,000 was made to you by the Metropolitan Life? A. Yes.

Q. At  $1\frac{1}{2}$  per cent.? A. Yes.

Q. And that continued through the year 1904? A. It did.

Q. And is that the amount still outstanding, \$75,000? A. That is right; \$75,000.

Q. And the rate of interest remained  $1\frac{1}{2}$  per cent. until July 1, 1905? A. Until this year.

Q. Until July 1, 1905? A. I guess that is right.

Q. And then it was changed to  $2\frac{1}{2}$  per cent.? A. I have paid  $2\frac{1}{2}$  per cent. this year.

Q. Will you kindly explain, Mr. McCall, how you could justify taking a loan from the Metropolitan Life at that rate of interest? A. I would have taken it at a lower rate if they would have given it.

Q. Well, you, as a director of the Metropolitan Life, were interested in seeing that its investments were made at a proper return? A. Now, do you think it was for me to decide the rate of interest?

*Testimony of John A. McCall*

Q. You were a director. I am calling your attention to that.  
A. It is a stock company, Mr. Hughes.

Q. But your duty as a director still gave you an interest in its investments? A. I don't think my duty as a director called on me to pay a higher rate.

Q. You then claim it would be proper for you to take money from that company without interest if they were willing to give it? A. Oh, no; that is *reductio ad absurdum*.

Q. So, I understand. But are we to understand that you did not allow your relations with the company as a director in any way to come into your mind when you were dealing with this matter for your personal interest? A. No.

Q. Are you on any of the committees of the Metropolitan Life?  
A. I have never served on a committee.

Q. Do you, as a director of the Metropolitan Life, know that loans have been made to J. R. Hegeman by the Metropolitan Life at  $1\frac{1}{2}$  per cent. interest? A. No.

Q. That has never been brought to your attention. I understand that Mr. Albert McClave is employed by the New York Life in some capacity? A. Yes.

Q. He is a son-in-law of yours, I believe? A. He is.

Q. Now, what contract has he with the New York Life? A. A regular inspector's contract. I think he draws \$10,000 a year and he receives \$5,000 additional.

Q. And what is that for? You mean as a part of his stipulated compensation? A. Yes; it is a part of his compensation. He gets \$15,000 a year all told.

Q. Has he any commissions or interests in renewals? A. No; nothing of that kind except what he writes himself. If he writes a risk himself that is what he does.

Q. Then he gets the usual commission? A. Yes.

Q. But aside from what business he personally writes his total compensation is \$15,000 a year? A. That is right.



*Testimony of John A. McCall*

Q. Attention has also been called to the fact there is a Mr. John A. Horan in your company? A. Yes, there is.

Q. Is he related to you? A. Yes he is; he is Mrs. McCall's brother.

Q. What is his relation to the society? A. Auditor at the Paris office.

Q. How much does he get? A. \$7,500 a year.

Q. Has he anything in addition to that specified salary? A. No.

Q. We were shown the other day certain checks made by the Equitable Life to Andrew Hamilton for certain moneys; I forget the amount; which checks apparently were cashed at the New York Life office; they bore Mr. Banta's endorsement. Do you know what that was for? A. Well, only from Mr. Banta. He said there was a check from the Equitable Life to Hamilton, who came to him to get the money, to check his endorsement on it. It didn't go on the New York Life books at all, Mr. Hughes; had nothing to do with that.

Q. It was simply cashed up there? A. That is all. It was either cashed there or the signature guaranteed at the bank, I don't know which.

Q. One case it was that and other case——. A. Had no relation with the New York Life at all—the deposit I mean.

Q. Do you know of any practice of the insurance companies contributing equally in regard to their defensive tactics? A. Yes, I do know of one instance. Shall I tell it?

Q. Will you kindly tell it, yes. A. In the State of Wisconsin an action was brought against the Equitable Life by the Commissioner of the State to oust them, and the litigation extended over a period of two years, involving the right to issue a deferred dividend contract. It affected all of the companies, because they were all issuing the same kind of a contract, and we agreed that if they should go ahead with the litigation that we would stand

*Testimony of John A. McCall*

one-third of that expense. One-third of the expense was \$10,000, I think—no, it was \$14,000, payable in two checks. The Commissioner was defeated and the Equitable remained in the State. But, Mr. Hughes, you will understand this, that was entirely litigation before the court. I have the checks for that here, if you desire to see them.

Q. That is the only matter of that sort where the companies contributed equally? A. That is the only one I know of.

Q. The reason I ask you that, is we have evidence of such contributions between the Equitable and Mutual——. A. No.

Q. But as to the New York Life——. A. No, this is the only case I know of. That entirely related to a suit in the courts on the question whether any company had a right to issue a deferred dividend contract.

Q. My attention has also been called to legislation of this State putting Chicago & Alton bonds in 1903 upon what is called the savings bank list? A. Yes.

Q. Do you recall the promotion of that legislation? A. Not at all. The New York Life, Mr. Hughes, had no more to do with that than the man in the moon had to do with it.

Q. The New York Life had invested previously quite largely in those bonds? A. Yes, in those bonds.

Q. Well, am I to understand that it was not contemplated by the officers of the New York Life that this legislation if enacted would increase the value of the bonds? A. Oh, doubtless that was the idea, undoubtedly, that it would.

Q. But as a matter of fact——. A. A low rate of interest and they didn't do it.

Q. And the savings banks did not take the bonds? A. The savings banks did not take the bonds. Understand, Mr. Hughes, we had nothing to do with it.

Q. I take it you mean to make that very emphatic, that your

*Testimony of John A. McCall*

company had nothing to do with that in any way, shape or manner? A. Not in any form, not directly or indirectly.

Q. Now, is it a fact that money is sent from the Paris office to New York from time to time for use here that does not appear on the books of the company? A. No; I don't recall any such instances, Mr. Hughes.

Q. Do you recall that moneys from time to time are sent from the Paris office? A. Oh, yes, but that is in the general accounts of the company and comes in the usual way.

Q. You mean in the remittances of balances from time to time? A. Yes.

Q. What I refer to are cases where moneys might be put on deposit somewhere to be available for use? A. Yes.

Q. That has not occurred? A. I don't recall any such occasion.

Q. They had up this Paris office return on investment as connected with the general question of extension of business, cost of new business, cost of getting it, and how far certain proceedings are advisable in the interests of policy holders, which, as I understand from your own statement, constitutes some of the most perplexing questions in insurance—is not that so? A. Yes.

Q. Will you kindly explain what the reason was for the expense connected with the Paris office building which comes to a total of actual cost of some two millions and a half? A. Yes. The original Paris building, of course, was purchased before my administration, but it was an old building built really of the stones of the old Bastille, and was intended to be a restaurant and was not at all adequate for office purposes, but for the time being served the purpose, and it had a name and a trade mark and was known as the Café Riche, and the company occupied a part of it. I am speaking now more of the history of the building than of anything else. Our European business grew so largely that this building, as I say, was absolutely useless for our purposes, so the old building was destroyed and the new building put on the site

*Testimony of John A. McCall*

which the company occupied in its entirety except one, the ground floor.

Q. Well, now, on the new building there was spent in construction, according to the evidence, about a million and a quarter? A. Yes.

Q. Some twice as much as the building, for example, of your company in Minneapolis? A. Yes.

Q. Now, what was the reason for that? A. It was the headquarters of Europe, and Paris, as you know, is a show city where all Europeans go at some time of the year. It was helpful to us in that respect, and all our foreign business was absolutely managed from this central part, just as though the company was a company in itself with its headquarters at Paris.

Q. So that for sentimental and advertising reasons it was good to have the building there? A. Yes, it was.

Q. And aside from that, what I am getting at is how that amount of money could be expended on the building actually put there? A. \$1,250,000?

Q. Yes. A. Oh, yes.

Q. It was spent, I understand that, but how did it happen such a large amount was expended in purchasing the building you actually have? A. It is a very showy building. I don't know whether you have ever seen it or not.

Q. Yes; I have seen it. A. And it is really a conspicuous building in Paris. The contracts were duly let and we took all precautions regarding it, and I wish to say as a general remark that what we value our real estate at is not at all in connection with cost or what the value may be. We do not want to sell, but I do want the New York Life not to carry its real estate as anything more than a  $3\frac{1}{2}$  per cent earning basis.

Q. That has been explained. Mention has also been made of your Russian investments. A. Yes.

Q. Investment in Russian bonds? A. Yes.

*Testimony of John A. McCall*

Q. Do I understand that the Russian Railroad securities are guaranteed by the Russian government as to principal or only as to interest? A. I understand they are guaranteed as to principal and interest.

Q. Have you looked into that question? A. No; I have not, definitely, but, of course, Mr. Hughes, you understand in Russia the money comes from our premiums gathered there. We don't take money from the United States to invest in Russia. It is from the premiums gathered there.

Q. What is the total amount you have there invested? A. I should say offhand \$16,000,000. We have sixty millions of business in Russia. And if it is at all of interest to know, out of that sixty millions of business we had but two losses in the Russo-Japanese war.

MR. TULLY: How much did those two losses amount to?

THE WITNESS: \$7,500.

Q. I find here a statement purporting to have been written by the company to one of its agents. Of course I cannot vouch for the authenticity of it, but I want to know if it does reflect the attitude of the management. It says "though the management is disposed to encourage policies for annual dividends there is no absolute rule that no such policy should be written." Now, is it the policy of the company to discourage policies with annual dividends? A. Yes; we don't believe in them.

Q. I should be very glad for you to state why you don't believe in them? A. Because the cost of getting the business in the earlier years makes the annual dividend policy holder a dissatisfied policyholder.

Q. In other words, in each year if the proceeds, if the distribution of the results of the year, were credited to the policyholders

*Testimony of John A. McCall*

annually what they would be entitled to, you think they would be dissatisfied? A. Yes; I do, say, for three years. On the third year practically.

Q. Are there companies which do an annual dividend business largely? A. Yes, there are companies.

Q. You have studied the question, I suppose, of comparative methods? A. Yes. There are companies that do an annual dividend business, Mr. Hughes.

Q. Do you think they find that difficulty? A. Yes, because they don't begin to do one-fiftieth part of the business that we do, and I should like, Mr. Hughes—will you let me make a suggestion right here?

Q. Yes, go on. A. I think this morning's investigation developed one thing, I think in justice due the New York Company that this committee should ask for the contracts of some of the annual dividend companies doing business in this state, or of their agents.

Q. We certainly shall do so. A. The talk this morning ran along the lines that we paid a less commission on annual dividend policies than the others. That is true, because we are a deferred dividend company you may say, but I will guarantee you if you call for the contracts of the annual dividend companies in this state you will be amazed to see what they pay.

Q. We will certainly have those matters in evidence before we get through. A. You will find some of them pay 20 per cent. a year more than we do.

Q. What is that? A. You will find that the annual dividend companies have got contracts in existence that will call for 20 per cent. more commission than we pay.

BY MR. ROGERS:

Q. Can you give the names of the companies that you char-

*Testimony of John A. McCall*

acterize? A. I should like if you would excuse me from doing that. I will do it privately.

BY MR. HUGHES:

Q. How do they get along if they pay so high and they are on an annual dividend basis? A. They do that very thing that you were criticising by innuendo this morning, as to where you provide for your reserve in the first year. They take it out of the surplus that has been accumulated in the company and pay it.

Q. Of course, that is the same thing that is done by the New York Life, is it? A. Yes, but it appears that we are the only offenders.

Q. Oh, there are others? A. Yes, there are others.

Q. I think I asked you the other day as to whether you ever had any interest in any syndicate? A. Yes, you asked me the question, and I said I never had any interest in any syndicate that sold securities to the New York Life. Please don't understand that I haven't had an interest in syndicates. I don't want that understood.

Q. Oh, no, you have had an interest in syndicates, I understand. A. Yes.

Q. But you have not had an interest in a syndicate where the New York Life buys bonds? A. No, I have no interest.

Q. We have had here, for instance, a great deal of evidence as to the flotation of syndicates which are now owned by the New York Life? A. Let me be precise about it. The New York Life has been in 73 syndicate transactions. I have participated in two of them in which I made \$2,000 out of the 73, and in none that have sold securities to the company.

Q. Which were those two cases? A. The International Marine? That has not been dissolved.

*Testimony of John A. McCall*

Q. Were you in that? A. Fellow-feeling makes us wondrous kind.

Q. What was your interest in that? A. \$100,000.

Q. That isn't one of the class that pay \$2,000? A. I will sell it to you for what I paid for it.

Q. Well, you would have to buy it back the next day. A. I wish you would give me a little leeway of three days on that.

Q. Just go on, Mr. McCall, if you will, and mention the others? A. The Chicago, Burlington & Quincy. I have got \$20,000 in that, and got \$2,000 in profit out of it.

Q. And you say the New York Life did not buy any bonds in it? A. No. They bought bonds, but bought them in the market.

Q. You have called this International Mercantile Marine to my attention, and I do not know whether I asked you if you knew anything about that transaction when \$800,000 was sold on December 31st, and bought back on January 2d? A. Without any reflection on anybody connected with it, I don't know anything about it.

Q. Did you suppose you had parted with it? A. I heard there was a sale at 90 and afterwards I heard it didn't materialize.

Q. You knew the \$80,000 was to be sold? A. Yes, I did.

Q. Did you suppose that was an absolute sale? A. I did.

Q. And you were surprised when these same things came back? A. I was surprised afterwards that the man who wanted it at 90 didn't take it.

Q. The case was that it was sold at par and bought back at par? A. No; I knew nothing about that.

Q. That was the earlier transaction at the end of 1903? A. I don't know anything about that.

Q. Either of that sale or the repurchase? A. No, I did not.

Q. That was handled exclusively by Mr. Perkins? A. Mr. Perkins and Mr. Randolph handled that. I should like to say,



*Testimony of John A. McCall*

Mr. Hughes, too, for the record, that I am not a stockholder in the Metropolitan Life.

Q. How long have you been a director there, Mr. McCall?  
A. I think about eight years, maybe a little longer.

Q. I want to ask you this question: I understand you said in April, 1901, substantially as follows: "Mr. Perkins severs his connection with the New York Life completely when he enters the firm of J. P. Morgan & Company. We don't believe it right that an officer of a firm making such enormous investments as ourselves should be connected with any banking firm dealing in investments." Do you recall that now? A. I don't recall just what I said, but the question then up was whether Mr. Perkins should go to J. Pierpont Morgan & Company and stay with the New York Life and try to give full time to the concern. I didn't think it could be done.

Q. Did you change your opinion in regard to this matter you spoke of? A. Yes. I am a very thorough believer in Mr. Perkins being connected with the New York Life and with Mr. Morgan.

Q. When did you come to that conclusion? A. Well, I did that, I believe, about a year after he went into the firm.

Q. You thought it worked well? A. I thought it did.

BY MR. CHAIRMAN:

Q. Mr. McCall, while Mr. Hughes is looking up his data, do you know anything about the participation of policyholders of foreign mutual companies in the concerns of their companies, whether or not it is general—more general than it is in this country? A. Participation of foreign—

Q. Of foreign policyholders in the affairs of their mutual companies? A. I think, Mr. Chairman, that the mutual companies on the other side, are few and far between; scarcely any.

*Testimony of John A. McCall*

Q. You think there are few? A. Oh, very few.

Q. I assume that in England there must be mutual companies?

A. Oh, no, they run to the stock proposition.

Q. Mostly stock companies? A. Almost entirely.

Q. Do you find in these bills that annoy you in legislatures that the departmental influence is disregarded or departmental recommendations are disregarded by the committees or by the legislatures? A. Not always.

Q. Do you find the department usually conservative and right minded about measures? A. I will speak about our own State and Massachusetts. They are particularly so.

Q. And the committees consider the departmental recommendations with some closeness? A. Without question.

Q. Have you ever given any consideration to a standard form of life insurance policy, Mr. McCall? A. Yes, I have.

Q. Much consideration? A. Not a great deal. I never thought it was feasible. Something might be done along that line.

Q. Has it been a subject of discussion in insurance circles? A. Not very much, I think.

Q. I would be very glad if you would tell us briefly what you think of a standard form of life insurance policy, if it can be devised? A. Well, I think it would be very difficult for the reason that the contract that we would issue you would find most of the smaller companies could not do it. They could not pay the same surrender value and they could not make the loans, and they could not do many things, for example, the New York Life policy, if you will, is absolutely non-forfeitable from date. We do not contest a policy for any reason once we issue it. We haven't any such thing on our books. The moment we issue a contract to a man we find out in advance whether he is capable of paying the premium, we find out his physical condition and then

*Testimony of John A. McCall*

we don't have any law suits with his widow. And I do not think the smaller companies would want to take that risk.

Q. Well, if a standard form of policy could be devised, although as indulgent as the largest company could issue, it would yet be a standard form for all companies, and the objections, difficulties, in the way of drawing a standard form of policy could be overcome, what would you say as to having a standard form?

A. It may be devised and I would not say it was objectionable either.

Q. Would your objection to a standard form of life insurance policy obtain if it was coupled with the requirement—no other form, but requiring them to issue one standard form? A. Yes, I think that would be all right.

MR. HUGHES: That is all, Mr. McCall.

BY MR. ROGERS:

Q. I want to ask you, Mr. McCall, why in differentiations of the deferred dividend policyholders, the annual dividend policyholders, and dissatisfaction or express a dissatisfaction in the course of a few years. How do you explain it? A. At the expense of the business during the first two or three years.

Q. At the expense of the business—— A. Because of the expense of the business for the first two or three years. For example, might I just say a word on that point?

Q. I was not clear what your precise reason was? A. Well, take our annual dividend policies. We don't offer them; you might say, well the reason you don't offer them is because you are a deferred dividend company, almost wholly. Say eighty per cent of our business. That is true. Yet on the other hand our agents could issue annual dividend policies, it might be limited in number, but I am very sure they would not do near the business

*Testimony of John A. McCall*

they now are doing. Let me illustrate that, if you will, my point. The Connecticut Mutual, one of the best of the companies, is an annual dividend company, and at one time it stood head and shoulders to the front among all other companies, and yet to-day after thirty or forty years of existence or more the New York Life does in six months as much business as that company has got in force; in six months of a single year we do as much business as that company has in force. Let me carry that point still further, that the English companies, the greatest of the English companies, is the Equitable, greatest because it is the oldest and it is peculiarly conservative, and it has no agents, does business through advertising, and everyone knows that its bonuses are very large because they don't pay commissions, and the simple appeal to the Englishman involves an appeal to patronize the home company. That company issues just one policy a day, after 125 years of existence, having paid the greatest dividends and bonuses; we issue 287 thousand policies in a year. The average man will not insure through sentiment. You have got to have this man in the field who goes out and takes Mr. Rogers and Mr. Hughes and Mr. Chairman, insures his life through pertinacity, through keeping at him. That sort of man must be paid. It isn't every man that can be a life insurance agent. You must have men who are willing, if you please, to stand rebuffs and come again, and that class of man you have got to pay, and I suppose it would astonish you to know that out of our 10,000 agents they do not earn \$800 a year on the average.

BY MR. HUGHES:

Q. Almost as bad as ministers? A. Some ministers ought not to earn that much.

Q. Some agents do.

*Testimony of John A. McCall*

BY MR. McKEEN:

Q. There is one question I forgot to put on the general line this morning bearing on this question of deferred dividends. Of course, you are very familiar with the history of the Equitable, and you recall the original charter of the Equitable contained what is considered to be an imperative direction that the surplus be ascertained every five years. Now, do you recall the legislation in 1868? A. Very well, Mr. McKeen, that is, I recall the legislation of 1868. It was two years before my being in the department, but I am familiar with it.

Q. You are familiar with the fact that in 1868 the Legislature passed a general law removing that requirement? A. Yes.

Q. And that a similar law was passed a few years later? A. Yes, sir.

Q. Now, was that legislation prompted by the experience that it was unwise for a company to be restricted as to the precise period when it must ascertain its surplus? A. Yes. I think that legislation was undoubtedly prompted by the Equitable Life.

Q. Well, that you pretty well know to be the fact, do you not? A. Yes. Is that all, Mr. Chairman?

MR. HUGHES: Just a moment.

Q. You said the other day, Mr. McCall, that you were a policyholder in the New York Life for a large amount. I have forgotten just what amount? A. \$300,000.

Q. When did you become a policyholder? A. When I went in the company.

Q. 1892? A. Yes.

Q. For the full amount? A. No; I have increased it from year to year as my income increased.

*Testimony of John A. McCall*

Q. Do you know what the returns have been to the policyholders by the old Equitable? A. Yes, I think the last bonus, it was a five-year bonus—Mr. Weeks, can you tell me? I can give you that information, Mr. Hughes.

Q. You mean a bonus to policyholders? A. Yes, a bonus.

Q. Is it a fact that they have paid very largely to policyholders? A. Oh, very largely.

Q. Despite the fact they have increased their business very slightly? A. Yes.

Q. And that they only get a few policyholders a year? A. Yes, sir.

Q. They have been able to do that because they have not had a very large expense in getting business? A. Yes, scarcely any.

Q. Now, your business on your books at the end of last year is \$1,928,000,000? A. Yes, sir.

Q. And you are increasing the business at the rate of \$340,000,000 a year? A. Not this year.

Q. But the net increase has been about \$180,000,000 or \$200,000,000 a year? A. Yes, sir.

Q. Now, in your judgment, as an insurance man, should they go on indefinitely? Is there no time when an insurance company should say it is better, all things considered, to call a halt?

A. I think there is a limit to human capacity.

Q. And to capacity of human supervision? A. Yes.

Q. And to capacity to handle such gigantic accumulations? A. Undoubtedly.

Q. Have you thought about it enough to reach in your mind as to what that limit should be? A. No. I think it is a very serious question. I think this Committee could do a great deal of very good work in that respect, Mr. Hughes.

Q. That is exactly what I had in mind. Here you are rolling up what of course we all realize to be enormous sums and insur-

*Testimony of Neil F. Towner*

ing a great many risks, and the question is whether there is any point at which an insurance company should stop writing business and limit itself to keeping up a complement of business which it may deem advisable to properly distribute its risks and maintain its prestige? A. To carry that out will require a very serious consideration, and I say to you frankly I think it is a subject that should be very seriously considered by this committee.

Q. Has that been mooted at all in the past among insurance men, voluntary action of that kind? A. No, Mr. Hughes, it has been mooted, but it was with a desire to restrain the New York Life.

Q. I see. And there was no tendency to equalize the thing all around. No.

Q. I heard the other day that there was an insurance president some years ago that proposed something of that kind, but that the proposition did not meet with favor. Do you know of that? A. Yes, I do. There was such a bill introduced at Albany or a suggestion.

MR. HUGHES: That is all, Mr. McCall. Is Mr. Thummel here?

MR. BECK: He is not here.

MR. HUGHES: I had told counsel that I would notify him when I would call Mr. Thummel, but it has slipped my mind, so I wish to have no animadversion made by reason of his not being present to-day. I will ask Mr. Devlin to take the stand, but before Mr. Devlin resumes, is Mr. Towner here?

NEIL F. TOWNER, called as a witness, being duly sworn, testified as follows:

*Testimony of Neil F. Towner*

BY MR. HUGHES:

Q. Where do you reside? A. Albany.

Q. Are you connected in any way with Mr. Hamilton in business? A. Yes.

Q. In what way? A. I am associated in the practice of law with Judge Hamilton in Albany.

Q. How long have you been such? A. Since 1902, January 1.

Q. Have you had occasions from time to time to receive returned checks from the banks that had been drawn by Judge Hamilton? A. Very seldom.

Q. Have you done so recently? A. Yes, sir.

Q. **From what bank?** A. The Albany Trust Company.

Q. When did you receive the returned checks? A. In September, I cannot give you the date.

Q. Have you the deposit book? A. No.

Q. Have you the returned checks in your possession? A. No.

Q. Who has them? A. I don't know.

Q. To whom did you give them? A. I laid them on Judge Hamilton's desk.

Q. Are they there now? A. I do not think so. They were not there the last time I looked.

Q. Did you look in response to the subpoena? A. Yes.

Q. They were not there? A. No.

Q. Do you know who had taken them? A. No.

Q. Who has access to his desk? A. Almost anybody, the desk is there and open.

Q. When did you get these returned checks? A. I cannot give you the exact date. It was in September.

Q. That is last month? A. Yes, this last month.

Q. Did you lock them in his desk? A. No, I put them in the drawer in the desk, I think.



*Testimony of Edward I. Devlin*

Q. And when you got the subpoena the other day you looked for them and they were not there? A. Yes.

Q. That is all you know about them? A. Yes.

Q. Did you have his check book? A. No.

Q. Do you know where that is, or who has it? A. No.

Q. Have you ever cashed any checks for Mr. Hamilton? A. I don't recollect any now. I may possibly.

Q. Do you recall cashing any checks for \$20,00 or \$25,000? A. No, no such amount as that.

Q. Or any amount over \$5,000? A. Not that I recall, no.

Q. When is Judge Hamilton expected back? A. I think the 11th or 12th of October.

Q. Has he already sailed? A. No, I think he sails Thursday or Friday of this week.

MR. HUGHES: That it all, Mr. Towner. Mr. Devlin, you may take the stand.

EDWARD I. DEVLIN, resumed.

BY MR. HUGHES:

Q. You had a sheet the other day which contained data with reference to the earnings of Foreign Office buildings? A. Yes.

Q. Have you got that here? A. Yes.

Q. We had already looked at the New York Life's building in Paris, you remember? A. Yes.

Q. And I would like to have the same sheet as you had at that time? A. Is this the sheet, Mr. Hughes (handing paper).

Q. Just give me, if you will, the gross and net income from the Berlin office building? A. For 1904?

Q. Yes, or if you have it for a period of three years, as you gave the other. We will take the same here. A. The gross

*Testimony of Edward I. Devlin*

income from the Berlin building for 1904 was \$20,941.42, and the net income \$16,690.30, or 4 7-10 on the book value.

Q. How closely does the book value correspond to the actual cost to the company of that building? A. Here is the statement.

MR. HUGHES: Witness hands me a statement showing the cost of the Berlin building which I offer in evidence.

(Paper marked Exhibit 239.)

(This exhibit will be found in the book of exhibits.)

THE WITNESS: The book value to-day is \$355,000. The actual cost \$362,738.99.

Q. What is the income gross and net from the building in Vienna belonging to the New York Life Insurance Co.? A. The gross income for the year ending December 31, 1904, was \$16,136.50, and the net income \$11,992.33, or 3 4-10 per cent. on the book value.

Q. What is the actual cost of that building?

(Witness hands paper to counsel.)

MR. HUGHES: I offer that in evidence.

(Marked Exhibit 240.)

(This exhibit will be found in the book of Exhibits.)

THE WITNESS: The book value of the Vienna building is \$335,000, the actual cost \$306,340.50.

*Testimony of Edward I. Devlin*

Q. How much of the income derived from the Vienna building— A. May I have it appear on the record that that increase was only a portion of the increase made by the seven State examiners in the year 1894. They made an increase of \$67,125 at that time.

Q. And you took credit for how much? A. Apparently about \$28,000.

Q. How much of the income derived from the Vienna building which you have just stated to be gross about \$16,000 was paid by the company itself or charged to the company itself as rent for the offices it occupied? A. \$3,000.

Q. How much of the income of the Berlin building was charged to the company itself as the rent of the offices it occupied? A. \$2,620.

Q. What is the income gross and net received from the building at Amsterdam, Holland? A. For the year ending December 31, 1904, the gross income was \$7,573.20 and the net income \$3,815.42, or  $2\frac{1}{2}$  per cent. on the book value.

Q. How much of the income of \$7,500 was charged to the company? A. \$1,300.

Q. What is the book value of the Amsterdam building? A. \$150,000.

Q. What is the actual cost of the Amsterdam building? A. \$190,808.61.

Q. Have you a statement there? A. Yes.

MR. HUGHES: I offer it in evidence.

(Exhibit marked No. 241.)

(Exhibit 241 will be found in the book of exhibits.)

Q. What is the income from the building at Belgrade, Servia? A. For the year ending December 31, 1904, \$2,382.55.

*Testimony of Edward I. Devlin*

Q. Gross? A. Gross. Net, \$760.83, or a fraction over 5 per cent. on the book value.

Q. How much is paid by the company? A. \$20.17.

Q. What is the book value? A. The company was only a tenant for a portion of the year. The value is \$15,000. Now, Mr. Hughes, I would like to say in that connection, that the Belgrade property is the only one used for office building purposes which has been purchased during Mr. McCall's administration. It was bought in 1894 at a cost of \$48,250 and one-half of it was sold in 1894 for \$6,670, and we are carrying the remaining one-half at \$15,000. It is a small one-story structure.

MR. HUGHES: I offer the statement in evidence.

(Exhibit Marked Exhibit No. 242.)

(No. 242 will be found in the book of exhibits.)

Q. What is the gross income from the building in Buda-Pesth? A. For the year ending December 31, 1904, \$22,045.30, gross; net \$13,548.01 or 2.0246 per cent on the book value.

Q. What is the amount paid by the company? A. \$2,000.

Q. What is the actual cost of the building? A. \$625,310.85 and the book value \$550,000.

Q. Have you a statement of the cost there? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Paper marked Exhibit 243.)

(Exhibit 243 will be found in the book of exhibits.)

Q. You carry your main office at Broadway and Leonard street at \$5,000,000? A. That is correct.

*Testimony of Edward I. Devlin*

Q. What is its actual cost? A. \$7,121,267.37.

Q. What is the total gross income from that building? A. For the year ending December 31, 1904, \$331,089.84.

Q. How much of that is charged to the company? A. The company charges itself with \$150,000 risk, of which we apportion \$132,500 to the home office building and \$14,000 to what is now called the home office annex building, and \$3,500 to the building on the corner of Elm and Pearl Streets, which is used very largely for furniture and office supplies, branch office supplies, and storage.

Q. Corner of Elm? A. Corner of Elm and Pearl. It is the south-west corner of Elm and Pearl. It is listed there at \$75,000.

Q. Well, what is the net income from the main office building? A. \$186,410.01 or 3.72 per cent of the scheduled value.

Q. That is of the book value? A. Yes.

Q. And what per cent of the actual cost? A. About 2.6 per cent, I should say.

Q. Have you a statement of the cost of that building? A. Yes.

(Witness hands paper.)

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit 244.)

(Exhibit 244 will be found in the book of exhibits.)

THE WITNESS: In that relation I would like to have it appear that the Home Office annex building is supplied with steam heat and electric lights and operation of elevator all from our home office building plant, and no credit is given in this statement to the home office building for that purpose.

*Testimony of Edward I. Devlin*

Q. The book value of the home office building, from Broadway to Leonard, Centre and Worth Streets, including also 123 West Street, including all the property owned by the company on that block is \$3,125.00? A. That is correct.

Q. What is the actual cost? A. \$1,371,504.99.

Q. Have you a statement of that? A. Yes.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 245.)

(Exhibit 245 will be found in the book of exhibits.)

Q. Your value includes \$235,000 which has not been expended according to the testimony, but is in the hands of Mr. Hamilton?

A. According to the president's testimony, that is correct?

Q. According to your books it shows this as the actual cost?  
A. That is the actual charge.

Q. That is the item March 28, 1904, transferred from other accounts, \$235,000? A. Yes.

Q. Did you know before the president's testimony that that amount had not been expended? A. No, sir. In that respect, Mr. Hughes, I knew that the amount of money called for by the deed had been expended because we had the deeds in the office.

Q. But you had nothing to show that this amount had been called for? A. No.

Q. What part of that block, Leonard, Elm, Worth and Centre Streets is actually used by the company? A. The building which was formerly known as the printing house building, a twelve story building, and the four upper floors are used by the company.

Q. What is the gross income from the property owned by the company on that block? A. We only own property apart from

*Testimony of Edward I. Devlin*

the printing house building property, a portion of last year, and therefore I could not give you a statement which would show the full year's income. We paid a full year's taxes and in many cases fire insurance premiums for three years, but only derived income for about six months, so it does not make a fair showing on that basis.

Q. Would it if we doubled the revenue? A. Yes, we estimate that the property should yield \$63,288.45.

Q. Gross? A. Net.

Q. Well, what has been the income for six months? A. The income for last year including the entire year for the printing house building proper was \$64,716.55.

Q. How much of that was from the printing office building as you call it? A. The Printing House Building—the rent collected was \$43,700 and the expenses \$9,539.28. Of course, there again would—they get all their power, heating and light from the other building. The expenses otherwise would be greater.

Q. The Printing House building, as I understand it, is a twelve-story building, and you now only use four floors of it? A. Yes.

Q. What reason was there for acquiring all the property you have acquired in that block? A. Because in the home office building proper we get about \$1.75 per square foot and we can house a very large portion of the business, the working forces, in the other building at just about one-half of that rate; we are renting space in the Printing House building for \$4,500 a floor, and I think it contains about 6,000 square feet, superficial area.

Q. You carry 49 West 72d Street, New York, at a book value of \$175,000. What was the cost? A. The actual cost was \$203,056.93.

(Witness hands paper.)

Q. Is this the statement? A. Yes.

*Testimony of Edward I. Devlin*

Q. That was acquired through foreclosure in 1902? A. Yes, I don't remember the date.

MR. HUGHES: I offer that statement in evidence.

(Paper marked Exhibit 246.)

(Exhibit 246 will be found in the book of exhibits.)

Q. What is the gross income from that building? A. For the year ending December 31, 1904, the gross income was \$10,375.18 and the disbursements \$6,247.67.

Q. What is the net income? A. \$4,127.47.

Q. What were the disbursements for? A. Mr. Hughes, I find these figures do not tally. Apparently there is a difference——

Q. Well, that will appear. What were the disbursements for? A. They were for taxes and fire insurance, I presume. Sometimes we write three-year policies. And general operating expenses, hall boys, elevator boys and firemen.

Q. And janitors? A. Yes.

Q. Is that an apartment house? A. Yes, that is an apartment house.

Q. Who are the tenants? A. The present tenants are——.

Q. The tenants in 1904? A. The tenants in 1904 were Mr. Gotschall, Mr. Jacquette, Mr. Albert McClave, Mr. John C. McCall, Mr. Ballard McCall and Mr. Leo H. McCall.

Q. What rent did Mr. John C. McCall pay? A. \$1,500.

Q. And Mr. Leo McCall? A. \$1,500.

Q. Mr. Ballard McCall? A. \$1,500.

Q. Mr. McClave? A. \$1,700.

Q. Mr. Gottschall? A. \$2,400.

Q. Mr. Jocquette? A. 1,800.



*Testimony of Edward I. Devlin*

Q. What percentage is the net income from that building for 1904 on the cost of the building? A. .0235.

Q. Two per cent. and three and one-half cents per cent.? A. Yes, that is right.

Q. Is that building on the corner of Columbus Avenue or next to the corner? A. No, it is not the corner, it is next east of the corner.

Q. What is the width of it? A. Fifty feet.

Q. And the depth? A. One hundred feet.

Q. How many apartments? A. There are six.

Q. How many rooms are there in an apartment? A. I think there are nine or ten and bath.

Q. One bath or more? A. Two baths in most of the apartments.

Q. It was acquired in 1902? Was it a completed building when it was acquired? A. Yes, it was a completed building in very bad condition; very much run down.

Q. In 1902 \$23,552 was expended on its improvement? A. Yes, it was very necessary in the condition we found the building—to overhaul it very thoroughly.

Q. And \$13,000 more in 1903? A. Well, that was part of the general arrangement of the improvement of the property. It was not completed in 1902.

Q. Bringing the total cost up to \$203,000. Who fixed the rents of these apartments? A. Why, in that particular case, as in most other cases, I advised very generally with the President. The President was in the neighborhood and knew it very thoroughly and knew of the very much deteriorated condition in which this property had fallen and the matter was discussed with him. He was very anxious to get a class of tenants in there who would restore the good repute of the property, and the members of his family and no doubt—in fact, in a great many cases, to their discomfort, made temporary arrangements, well

*Testimony of Edward I. Devlin*

until the middle of winter, and the apartment was completed ready for occupancy sometime, I think, in January.

Q. In what year? A. 1903.

Q. That was after the improvements were made to the extent of some \$43,000? A. Yes. We had the prospect of having it on our hands until the rental season soaring in the Fall.

Q. What was the nature of the improvements? A. Why, the four upper flats, they had been double-floor flats, two floors to a flat, and in the four upper floors those were changed to single-floor flats, and a new elevator was put in and a general renovation of the building and engine room and entire property.

Q. What term leases are held by the tenants? A. Mr. Tacutte has a one-year lease and I think the present tenant who took Mr. Gottschalk's place is Mr. Sheyler. He took Mr. Gottschalk's place at \$1,800. A building was put up east of our property and we were unable to get \$2,400 for the apartments, and we made another lease for \$1,800, I think it is.

Q. What are the other leases? A. There are no other leases.

Q. It is a month to month tenancy? A. It is practically.

Q. What rent was paid by the others? A. Mr. Leo McCall is not there, but the other tenants are the same, except where Mr. Sheyler has taken Mr. Gottschalk's apartment.

Q. What rents are paid, the same as before? A. Yes, the top floor is rented to Mr. Feron, at \$1,500.

Q. He has taken Leo McCall's apartment? A. Yes. We offered the property I think—Mr. Feron was the third one, and the others declined to take it at that price, and he accepted it.

THE CHAIRMAN: The Committee will now adjourn to 10.30 to-morrow morning.

ALDERMANIC CHAMBER,

CITY HALL, NEW YORK CITY.

October 5, 1905.

The Committee met pursuant to adjournment, Senator Armstrong in the chair.

EDWARD I. DEVLIN, resumed.

BY MR. HUGHES:

Q. Mr. Devlin, have you the statement of the building at the corner of Park Avenue and 62nd Street? A. I have not a statement, but I think I can give you any information you want from the card.

Q. Give the gross and net income and the book value and actual cost, please. A. The actual cost of the Yosemite Apartment House, which was formerly known as Holbrook Hall, I find from the report of the Insurance Department on the examination of the New York Life Insurance Company made in 1891 was \$1,009,866.68. The company had charged it down to \$729,066.80. It was estimated at that time by the Appraiser of the Insurance Department to be worth not to exceed \$480,000 and subsequently I recall having asked Mr. Michael Coleman to appraise it for us some three or four years ago, and place the actual cash value on it. He estimated it to be worth \$450,000, and President McCall charged it down to that sum at which it now appears in our schedule, \$450,000.

*Testimony of Edward I. Devlin*

Q. You have given the total cost as of 1891. What is the total cost of that building to date? A. I think you will have to get the card. There has been practically nothing ahead.

Q. Practically nothing added? A. Practically nothing.

Q. What is the gross income from that building? A. The gross income for the year ending December 31, 1904, was \$41,124.48 and the net income \$26,449.10 or 5.87 per cent. on the present book value.

Q. And how much upon the total cost? A. About 2.7 per cent

Q. Can you give any explanation of the large amount of money which that building cost? A. Mr. Hughes, I would like to hand you a copy of this report.

THE CHAIRMAN: Was not that last percentage an error on the total cost?

Q. What did you say the total cost was? A. \$1,009,866.68 and the net rental——

Q. One million—— A. \$1,009,866.68.

Q. How many apartments are there in that building? A. There are thirty-five.

Q. Have you a statement of the building in Wall street southwest corner of Ninth street, Kansas City, Missouri? A. Will you allow me in connection with the Yosemite Apartment House to refer to the comments made at that time by the Insurance Department?

Q. Yes. A. In other words, you are asking for the total cost of that property which was over a million dollars, and by looking over this report you will find that the Insurance Department away back in 1891 placed a value on the property of \$480,000 and severely criticised the judgment in making the investment at that time, and so that it does not at all belong to the present administration.

*Testimony of Edward I. Devlin*

Q. Your point is that that was a loss which was covered by transactions prior to the present administration? A. Yes, and the same thing will apply to the Plaza Hotel, to an extent to the home office building, that is the original home office building, and the western office buildings of the company. On page 31 the comment of the Insurance Department with reference to those buildings is made.

Q. As you have referred to the Plaza Hotel you might give me the facts as to that? A. The total cost of the Plaza Hotel to the company on June 30, 1891, was \$2,787,226.28, and reading from this report, Mr. Coleman appraised the property at two and one-half million dollars. This property came into the possession of the company in a manner somewhat similar to the Holbrook Hall. A loan was made to Fife & Campbell to enable them to build a hotel building on Fifth Avenue, 58th to 59th Streets. This loan was secured by a mortgage on the premises. After about \$800,000 had been advanced in the construction the builders were unable to proceed further, the results being that the company foreclosed the mortgage and bought in the property at a cost of about \$860,000. Nearly two million dollars additional was spent by the company in preparing the building for occupation.

Q. Making the total cost to the company of that building how much? A. On May 5, 1894, the properties known as 16 to 20 West 59th Street were purchased at a cost of \$157,329.83, making a total cost including those properties of \$3,096,549.23. The property was sold for \$3,000,000, of which \$250,000 was paid in cash on June 22, 1902, \$250,000 on December 1, 1902, and the balance of two and one half millions is carried on bond and mortgage.

Q. And the loss upon the investment was how much? A. Including commissions for sale and everything that I know of, the loss was \$129,035.35.

Q. So you got out of that better than was anticipated at one

*Testimony of Edward I. Devlin*

time? A. Better than according to the report of the Insurance Department we were really entitled to because they took, in agreement with Mr. Coleman's appraisal, they deducted \$283,994. I have a statement of that, Mr. Hughes (handing paper).

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit 247.)

(Exhibit 247 will be found in the book of Exhibits.)

Q. I should like to have you state briefly the experience of the company with reference to its office buildings in other cities. Take first the office building in Kansas City, Missouri. Have you a statement as to that? A. Yes, there is the statement (handing paper).

MR. HUGHES: I offer that in evidence.

(Paper marked 248.)

(Exhibit 248 will be found in the book of Exhibits.)

Q. From this it appears that the total actual cost of that building is \$1,901,781.23, of which \$1,763,307.70 had been expended prior to December 31, 1891? A. That is correct.

Q. And that it is carried upon your books at a valuation of \$1,200,000. What is the gross income from that building? A. The gross income for the year ending December 31, 1904, was \$127,738.46, and the net income \$69,002.81, or 5.75 per cent. on the book value.

Q. And what per cent. upon the actual cost? A. I should say about 3.6 per cent.

*Testimony of Edward I. Devlin*

Q. What amount of the income consists of rent charged to the company itself? A. \$1,992.

Q. How much of the building does the company occupy? A. I think about six offices. It is charged at the same rental as other tenants pay for the corresponding space.

Q. Then it occupies a very small part of the building? A. A comparatively small part. Since the first of the year the company has taken an additional office on the main floor which rents for \$1,800 per annum, therefore their present occupancy would amount to about \$3,800.

Q. In rental value out of about a total of \$120,000? A. \$127,000.

Q. Take the building in Omaha. Have you a statement of that? A. Yes.

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit 249.)

(Exhibit 249 will be found in the book of Exhibits.)

Q. From this it appears that the total cost of the Omaha building is \$1,246,641.72? A. That is correct.

Q. Of which \$1,204,976.82 had been expended prior to December 31, 1891. That is now value or carried upon the books at a valuation of \$650,000? A. That is right.

Q. What is the gross income from that? A. For the year ending December 31, 1904, the gross income was \$74,033.83, and the net income was \$34,803.57, or 5.35 per cent. on the book value.

Q. What amount on the cost? A. A little under 3 per cent.

Q. What amount is charged to the company for its occupancy? A. \$1,200.

*Testimony of Edward I. Devlin*

Q. And is the company charged at the same rate as other tenants? A. Practically the same. That is the aim, to charge the same as other tenants.

Q. Well, it would appear that these buildings are not at all needed for the purposes of the company except as they may be deemed valuable as an investment. A. May I read this, Mr. Hughes?

Q. From the report you refer to? A. Yes.

Q. Yes. A. Mr. Van Vranken, who was designated to examine and appraise properties——.

Q. What page are you reading from? A. Page 31—after a thorough examination, declares he believed the amount above stated to have been actually expended in the purchase of the land and erection of these several buildings. They are solidly constructed and very expensively finished, more expensively, it is thought, than the existing conditions and requirements warranted. The net rentals from these buildings have not thus far brought in a fair rental for the money invested, and there is no immediate prospects that they will prove as profitable as the investments of life insurance companies should. They have been appraised by Mr. Van Vranken at the cost figures above stated because of their recent construction. As an advertisement of the company they no doubt have considerable value, for as the appraiser says, each of them form one of the attractions in the city in which it is located. It is, of course, impossible to fix their advertising value, but the wisdom of these investments is very doubtful.

Q. Will you state the facts as to the Minneapolis building? (Witness produces statement.) You produce a statement which I offer in evidence.

(Marked Exhibit 250 and will be found in the book of Exhibits.)

A. The Minneapolis building, the actual cost is \$1,028,752.31,



*Testimony of Edward I. Devlin*

the investment to December 31, 1901, was \$1,093,797.80, but we have received from the sale of some vacant land adjoining our building, and which was included in the cost to December 31, 1901, \$95,835.06 net.

Q. Leaving the net cost to-day \$1,028,752.31? A. That is right.

Q. What is the gross income? A. The gross income for the year ending December 31, 1904, was \$62,203.34, the net income \$25,980.75, or .0433 per cent. on the book value.

Q. Or  $2\frac{1}{3}$  per cent. approximately on the actual cost? A. Approximately.

Q. Did you give me the particulars as to the building in New York, on the southeast corner of Elm and Leonard Streets, yesterday? You spoke of it in connection with one of the matters that was inquired about, but whether you gave me the particulars or not I am not sure? A. Yes; I gave you the particulars. As to rental value?

Q. Yes. A. Yes, sir.

Q. Take the St. Paul building next, please? A. The total cost of the St. Paul building has been \$922,440.85, at which the disbursements to December 31, 1901, were \$813,966.18 the total income for the year ending December 31, 1904, was \$41,292.41, and the net income \$8,122.32, or .108 per cent. of the book value.

Q. And what on the actual cost? A. A little less than one per cent. In that connection, Mr. Hughes, I might say that our expenses at St. Paul last year were rather heavy for items which scarcely belonged in operating expenses. I spent \$3,500 in fixing up one room which formerly rented for \$20 a month, and now we are getting \$1,800 a year for it, but that all came out of the net return on the property.

Q. The Duluth building is a more recent structure? A. Duluth? There is no Duluth building.

*Testimony of Edward I. Devlin*

Q. What is this property? Is that taken under foreclosure that property at Duluth? A. This is an old schedule. That property has been sold.

Q. Oh, yes, a schedule of a year ago. A. The next is Montreal, if you want to take it in that order, Mr. Hughes.

Q. How long have you been connected with the company, Mr. Devlin? A. I first became connected with the New York Life Insurance Company on the 1st of September, 1895. I have represented them in Chicago, making headquarters in Chicago, in the way of Western loans, and in the Spring of 1897, I was given charge of the four Western and the Montreal buildings. In 1899 I came to New York City to take my present position.

Q. Are you a relative of Mr. McCall? A. No, sir.

Q. The Montreal building, I think, has been overlooked. What was the cost of that? A. The Montreal building cost \$818,359.45.

(Statement produced and offered in evidence by Mr. Hughes.)

(Marked Exhibit 251 and will be found in the Book of Exhibits.)

Q. And it is carried on the books at a valuation of how much? A. Oh, it is carried on the books at a valuation of \$350,000.

Q. What is the gross income? A. The gross income for the year ending December 31, 1904, was \$32,227.18; the net income was \$9,212.92, or .0263 per cent. on the book value.

Q. And what percentage on the actual cost? A. About  $1\frac{1}{4}$ .

Q. What you have read from the report of 1892 in connection with one of the buildings applies practically to all the office buildings of the company? A. Yes, sir.

MR. HUGHES: That is all for the present.

*Testimony of Edward I. Devlin*

THE WITNESS: Mr. Hughes, may I make this statement? The four Western buildings of which I took charge in the Spring of 1897 were carried in the company's statement of December 31, 1896, at a valuation of \$4,160,000. The gross income for the year ending December 31, 1896, was \$200,746.43; the disbursements, including \$30,373.25 of taxes, amounted to \$133,872.79, leaving a net rental of \$36,500.39. In the schedule of December 31, 1904, the same properties were carried at a valuation of \$2,900,000, a reduction of over \$1,200,000; the gross rental was \$305,268.04, the expenses including \$43,304.12 of taxes, an increase of about \$13,000 in taxes during the period, amounted to \$124,054.50. Making a net rental in 1904 of \$137,909.42. Our real estate during the year 1903 yielded four per cent.; during the year 1904 it returned 3.7 per cent. The cause for this being chiefly the addition of the home office annex properties, for which we received only a small return in rental for a six months' period and had a year's disbursements for taxes and fire insurance. We expect that during the present year all of our properties will average four per cent. In some cases it appears from the testimony that the President has not yet charged the individual properties off to a point where they all return 3½ per cent. on the investment, but in many cases he has long ago charged that off to such a point, and notwithstanding a material improvement in income return no increase of valuation has been claimed, so that the average yield is four per cent.

Q. You have occasion from time to time to obtain certificates extending the right of the company to hold property? A. We always do, Mr. Hughes, where we have been unable to dispose of it during a period of five years. But we mean to sell it.

Q. Are those obtained as a matter of form? A. I beg pardon?

Q. Those are obtained readily as a matter of form, are they

*Testimony of Edward I. Devlin*

not? A. Why, the superintendent has never failed to grant them to us.

Q. How much of this building east of the main building in New York, in the block bounded by Leonard, Worth, Elm and Center Streets, is it contemplated to actually use for the company's own purposes? A. I have never given any time to figuring that out accurately. We use something over a hundred thousand square feet in our present building and we are constantly growing and no department of any size which is at present quartered in the home office building could conveniently be located in the present building which you mention. The floor space is entirely inadequate. Our large departments occupy now in the neighborhood of from nine to ten thousand square feet on a floor, whereas there are only about six thousand square feet on a floor in the other building.

Q. It is intended to use as much of that building as is embraced within the building now at the southeast corner of Leonard and Elm Streets? There is a twelve-story building, of which you now use four floors. Do you need more room than would be furnished by the eight additional floors of that one building? A. Well, Mr. Hughes, you can readily see if there are six thousand superficial feet in those floors and we used it all, including the fourth floor and all, we could only have seventy-two thousand square feet, and now we actually occupy over a hundred thousand in our present building.

Q. But you actually occupy over a hundred thousand feet in your present building, and do you need any more than seventy-two thousand additional? A. We could not quarter our departments in the other building as it is at present, at all. You would have to have the actuary for instance——.

Q. You mean if removed from one to the other? A. Yes, sir.

Q. You mentioned that yesterday, the possibility of removal to a large extent? A. I did. The idea was undoubtedly to provide

*Testimony of Cornelius D. White*

for cheaper occupation. We occupy a space that we can rent readily at one dollar and seventy-five cents a square foot, and in the printing house we are renting at eighty cents.

Q. But so far as the present is concerned, the space of seventy-five thousand square feet would answer your purposes? A. For the present I think it would.

The statement of comparison between 1896 and 1904 produced by the witness and offered in evidence by Mr. Hughes.

(Marked Exhibit 252 and will be found in the Book of Exhibits.)

MR. WHITE, recalled, testified as follows:

BY MR. HUGHES:

Q. Mr. White, I have asked you to produce the account showing the money paid to Andrew Hamilton amounting to \$111,139.04, which was paid him in June, 1904, to discharge the taxes on premiums in New York State. Have you that account? A. I have.

Q. To what account was that charged? A. The title of it is Taxes State of New York Insurance Department.

Q. Now, later on, about December 30, 1904, \$75,000, the evidence is, was paid by the New York Life Insurance Company as part payment of that same tax. To what account was that charged? A. The same account.

Q. Under what date? A. September 27th.

Q. 1904? A. 1904.

Q. Then at that time was there a transfer of the \$75,000 which had thus been twice charged to the account put to some other account? A. In December, 1904, there was a transfer of that second \$75,000 to another account.

*Testimony of Cornelius D. White*

Q. To what account was the \$75,000 transferred? A. It was transferred to an account called "Contingent expenses."

Q. Contingent expenses. What sort of items are embraced in contingent expenses? A. Items that are paid for by the president in connection with the business of the company.

Q. I don't quite understand that. A. Why, personal—not personal expenditures of the president, but items that he has—it is to reimburse him for amounts that he has paid in connection with the company's business.

Q. In this particular case the items carried to contingent expense account is "To taxes New York Life Insurance \$75,000?" A. Yes. This is simply—this contingent expense account is simply a subsidiary account of the general expense account.

Q. That amount of \$75,000 which had originally been charged to the tax account and which when another payment of the same amount was made was transferred to the contingent expense account was never charged to legal expenses? A. No; it was transferred from this contingent expense account later on or at about the same time to the general expense account.

Q. And that is a separate account from the account of law expenses? A. Yes.

Q. So that that \$75,000 which Mr. Hamilton received, according to the testimony, is in addition to whatever he received which was charged to legal expenses? A. Yes.

Q. And also in addition to the \$235,000 which he received, which was charged under the real estate account? A. Yes.

Q. This account of contingent expenses appears with the exception of this item to be a comparatively small account? A. Yes.

Q. A few hundred dollars from time to time, not amounting to very much, and I understand these are reimbursements of moneys advanced? A. Yes.

Q. Have you the vouchers for those items? A. I have not.

*Testimony of Warren F. Thummel*

Q. Who has them? A. They are in the possession of the auditor, Mr. Whitney.

MR. HUGHES: That is all, Mr. White.

W. F. THUMMEL, called as a witness, being duly sworn, testifies as follows:

BY MR. HUGHES:

Q. Mr. Thummel, where do you reside? A. New York.

Q. What is your business? A. I am an attorney connected with the Law Department of the Mutual Life.

Q. Are you an attorney of this state? A. Yes, sir.

Q. Admitted to the bar of this state? A. Yes, sir.

Q. And how long have you been connected with the Mutual Life? A. A little less than six years.

Q. Were you connected with any insurance company prior to that time? A. Yes.

Q. With that company? A. I was the agent of the Saginaw Valley Fire and Marine before that time.

Q. Having headquarters where? A. Philadelphia.

Q. And were you also engaged in the practice of your profession? A. No, sir, not at that time. I had not been very long with the Saginaw; about two years.

Q. Were you an attorney at that time? A. Oh, yes; been an attorney since 1874.

Q. I see. And I suppose when you became connected with the Mutual Life you removed to New York? A. Shortly after.

Q. And in what way were you connected with the Mutual Life at first—in the solicitor's department? A. No; not at first.

Q. In what way? A. Well, in the same capacity as now, but

*Testimony of Warren F. Thummel*

I was not attached to the solicitor's department for several months.

Q. Are you on a regular retainer at the present time? A. I am on a salary.

Q. And what is that salary, sir? A. \$7,200.

Q. And how long have you been in that position, I mean retained on a salary? A. Why, it has always been salary; never been anything else.

Q. Do you occupy a part of the rooms set aside for the solicitor's department in the Mutual Life Building? A. Yes.

Q. What department of legal work receives your attention? A. Taxes.

Q. Anything else? A. Legislation.

Q. Generally throughout the United States? A. Generally.

Q. And that has been so for some time? A. Always; since I have been with them?

Q. We have had some evidence from a representative of the Equitable Life Insurance Society with regard to arrangements that are made between you and Mr. Hamilton and Mr. Mayne with regard to a division of territory. Will you please state just what was done in that respect? A. That arrangement existed before my connection with the company and has been continued up to the present time, so far as I know. Certain portions of the United States that required attention were divided so as not to multiply effort. The balance of the states were what we called open; anybody attended to them that could most conveniently.

Q. What was the actual division of territory between you and the New York Life and the Mutual, the last division made? A. I will have to give that from memory because I haven't any list of it. The Mutual Life had Virginia, North Carolina, Alabama, Kentucky, Ohio, Michigan, Minnesota and Washington, Oregon and New Mexico. The Equitable had Maryland, South Carolina, Georgia, Louisiana, Mississippi, Texas, Colorado, Arkansas, Cali-



*Testimony of Warren F. Thummel*

fornia and Nevada. The New York Indiana, Illinois, Wisconsin, Iowa, Nebraska, Kansas, Missouri, Tennessee, Indian Territory I don't mean Indian Territory, Oklahoma. The rest of the territory was regarded as open. We looked particularly after—when we conveniently could—anything that happened up in the New England States, and I think the Middle States. Affairs in the District of Columbia I usually attended to, although that was not supposed to be in the general arrangement. I had nothing to do personally with the direction of affairs except in Massachusetts until I got down to Virginia. Of course, if I was directed by the general solicitor to do any particular act in any place I would do it, but I didn't take any initiative in any of them except there.

Q. Does that also refer to New York, include New York? A. Oh, yes, sir. I had nothing whatever to do with New York at any time.

Q. Who did? A. Well, I don't know any more about it than was in the papers yesterday. I never had anything to do with it, and was never consulted in regard to it and I have no personal knowledge in regard to that matter.

Q. How was the matter of expenses adjusted between the companies? A. Why in a general way—the general plan was that each paid their own expenses, and from time to time we adjusted and paid differences.

Q. If the Mutual Life, for example, had general supervision over certain states, the amounts expended, would be expended through the Mutual Life's representative, would they not? A. I presume so.

Q. And you mean that then there would be a clearing of expenses in the different territories and balances would be paid? A. Well, if I understand your meaning by that word "clearing," yes, sir, it would be true.

Q. Well, to avoid any possibility of misapprehension, if you will explain just what was done. A. Well, for instance, if at

*Testimony of Warren F. Thummel*

any time we got—when it was convenient we found—of course, these figures are merely arbitrary—that we had expended say \$10,000, I would charge the Equitable with one-third of that \$10,000 when we came to settle up, if I was doing that part of it. If they had in the same time expended \$12,000 they would charge us with one-third of that \$12,000, and, of course, we would pay them the difference between our one-third and their one-third.

Q. Was an account kept in your books of these expenses?

A. No.

Q. When I said your books, I did not mean your individual books. A. I don't know—.

Q. But I mean the books of the company. A. I don't know about that, sir.

Q. Through whose hands did the money go? Did it go through your hands? A. Some of it.

Q. When it did go through your hands what form of voucher did you turn in? A. Well, now that would depend. Sometimes I would take a voucher from the person it was paid to, usually that was the case. I tried to do that as much as possible.

Q. In other words, to turn in a voucher which would show the disposition of the money? A. Well, as far as the voucher could show it, yes. At sometimes I presume I have received money on my own voucher.

Q. Do you know on what account these payments were made to you and for which you furnished vouchers were charged by the company? A. I do not.

Q. Were the payments that were made to you charged in your personal account with the company at all, or did you have a personal account with the company? A. Why, I presume I have a personal account with the company; yes, sir.

Q. Well, do you know anything about it? A. I do not know anything about it at all.

*Testimony of Warren F. Thummel*

Q. Have you ever been furnished a transcript of any account?  
A. No, sir.

Q. Why do you say you presume you have a personal account? Do you mean simply as to salary? A. Well, I presume **there is a salary account**, and then there would be an expense account.

Q. There would be an expense account in which you would be charged with moneys that you had received? A. Yes, sir.

Q. Do you receive any moneys for expenses other than the moneys you receive in connection with your work in looking after taxation and legislation? A. No.

Q. So it is your idea that the moneys you received to be disbursed in such matters would be in an account between the company and you? A. I presume so.

Q. And it is not your idea that the company keeps an account with the individuals to whom you may pay money? A. I would think that that was true.

Q. Or that it keeps a general account under some generic head, to which all moneys of that kind would be charged? A. I don't know.

Q. Did the Mutual Life on these adjustments ever have occasion to pay the Equitable anything? A. I don't remember that they ever did.

Q. Or the New York Life? A. Yes, sir; I think they did.

Q. What payments do you recall having been made to the New York Life by the Mutual? A. I cannot recall any with sufficient clearness to state them. I know as a general proposition that the New York Life expenses exceeded ours, and that ours exceeded the Equitable's.

Q. Do you know whether those payments were made to the New York Life or to some individual representing the New York Life? A. Well, I don't know because I never made them.

*Testimony of Warren F. Thummel*

Q. And you don't know to what account they were charged?

A. I don't know anything about that.

Q. Have you met Mr. Andrew Hamilton? A. Yes.

Q. From time to time? A. Yes, I know him.

Q. Have you talked with him in regard to the disposition of moneys in regard to the legislation? A. No.

Q. Never have had any talk with him about it? A. No, sir.

Q. Did you ever receive any moneys from Mr. Hamilton? A. Well, I am not clear as to that. I have received some money from the New York Life. I want to state, however, that there was none for my personal account. It was in connection with adjustments of expenses between the companies.

Q. It was not, or it was in adjustment? A. It was in adjustment. If any money was paid to me it was in that way. They never paid me anything for services in any way, shape or manner.

Q. How recently have you received any money from the New York Life? A. The last time there was any adjustment of account, as I remember, it was something over a year ago. That is as far as I know anything about it. And there was a small balance due us at that time, I don't know how much, and I think it is very possible that balance may have been paid to me, although I am not—I don't know about it. It was not my own money, and these matters were settled up, and when they were once settled up I thought no more about them.

Q. Do you recall whether that was in cash or in check? A. My—I would not know.

Q. What individual from the New York Life gave you the money? A. Well, I would not say that any individual gave it to me. I don't remember. I say that I think it is possible that on that occasion I got it. If I did, I presume I got it from Mr. Hamilton or through his office.

Q. Do you recall any other occasion on which money was paid

*Testimony of Warren F. Thummel*

over? A. I think there was one occasion before that when a specific amount for a specific purpose was handed to me by somebody, probably Mr. Hamilton.

Q. What amount was that? A. I could not say. I think it was about from \$1,300—I would say about \$1,300.

Q. How long ago was that? A. Well, that would be something over a year and a half, about two years ago.

Q. Was that in connection with your line of work? A. That was in connection with Iowa.

Q. And what was the specific purpose that you referred to? A. The specific purpose was for the purpose of trying to create something of a public sentiment against vicious legislation, against strike bills, and in favor of lower taxation for life insurance.

Q. How was public sentiment to be created? A. Sometime before that I had been thinking of the matter of legislation—I mean adverse legislation—the number of bills that were always coming up. I had conceived the idea, which was not original with me at all, of trying to have more or less publicity in regard to life insurance and the aims and objects of life insurance, and the cost of it, particularly along the line that any charge on life insurance premiums was a tax on the individual. I was coming east and I stopped at Des Moines and had a talk with some of the life insurance officials there along these lines. Sometime after that one of them came to see me about it and the result was that he undertook to organize a bureau for writing letters disseminating literature and that sort of thing among the people of the State of Iowa, and he conducted that bureau. The ultimate idea, of course, was for the reduction of taxation, and this money was furnished him for the expenses of that bureau.

Q. That being one-third of the total contribution for that purpose? A. Yes.

Q. The other two-thirds coming from the Equitable and the

*Testimony of Warren F. Thummel*

New York Life? A. If the Equitable was in that would be true, but if not, it would be one-half, but I think it was one-third.

Q. At any time have you received other moneys from Andrew Hamilton? A. Not that I remember of now. If any money was received it was in adjustment of the difference, but that is all I can remember of.

Q. At any time did you pay any money to Mr. Hamilton? A. No, I don't think I ever paid him any money. I have no recollection of it.

Q. You have received money from time to time from other persons besides Mr. Hamilton, representing the New York Life? A. I think not.

Q. Mr. McCall, testified as I recalled it, yesterday, that you had been retained in connection with a bill for Federal supervision? A. Mr. McCall was mistaken in that so far as any retainer was concerned. I am in the employ of the Mutual Life in all that I do, and my compensation comes from them. In that matter I saw Mr. McCall, and I probably asked him if his company would contribute to that purpose to the extent of a portion of the expense. It was not a retainer.

Q. And what was his answer? A. He said he would.

Q. And did you have a similar interview with some one representing the Equitable? A. Why, it is very possible, quite probable that I did, because I would not go into a matter of that kind without a consultation with them in regard to it.

Q. How long have you represented the insurance companies in connection with the matter of Federal Supervision? A. Well, that matter ran through one—a little more than one Congress.

Q. Can you tell me what amount the Mutual Life has disbursed in connection with the work that you have done during the last five years? A. No, sir, I could not because I don't know.

Q. What amount has passed through your hands approxi-

*Testimony of Warren F. Thummel*

mately? A. Well, that would be difficult to say. Comparatively small amounts.

Q. Take the year 1904, for example, how much was paid out by you in that year which you received from the Mutual Life?

A. 1904, I am not sure whether it was 1904 or 1903 that Alabama was in session. In that State I disbursed probably all told, or authorized the disbursement—I did not disburse any of it myself—I authorized it under instructions of the General Solicitor—probably twenty-two hundred or twenty-three hundred dollars.

Q. Are you cognizant of disbursements which do not pass through your hands, but which are made to protect the company against legislation which it deems undesirable? A. No, sir, I would not have any knowledge of it unless somebody just happened to speak about it to me. The probabilities are that I would not know anything about it at all.

Q. Well, do you say that all payments for that purpose go through your hands? A. Oh, no.

Q. Through whose hands do they go? A. Why I would say that they all, so far as the work that I know anything about—and if there is other work I don't know anything about it—go through the hands of the general solicitor or myself.

Q. You say if there is other work you do not know anything about. Do you mean there are things that you do not desire to know anything about? A. No, what I mean is that if there was anybody else engaged in that work other than ourselves I don't know it.

Q. What officer of your company has charge of these matters, what executive officer particularly? A. Well, as far as I had occasion to see the executive officers, it would be one of the vice-presidents.

Q. Which one? A. Mr. Granniss, usually.

Q. Is it not a fact that Mr. Granniss is in complete charge of

*Testimony of Warren F. Thummel*

this department of your business? A. I would say so; yes, sir. That is——.

Q. And Mr. Granniss would know just what payments are made, for they cannot be made without his authorization, is not that so? A. No, that is going a little further than the facts, I would say, because I would think that there were others who had plenty of authority to make payments.

Q. But, as a matter of fact, do they concern themselves with it? A. Ordinarily I should say not, so far as my experience goes. Mr. Granniss was more familiar with that matter and consequently whenever there was occasion to talk to one of the executive officers, I usually talk to him.

Q. You have mentioned an amount of \$2,300 in Alabama, and think you have mentioned one or two others, small sums. Do you mean to be understood as saying that that is all the money that was spent in 1904 by the Mutual Life to protect itself from undesirable legislation? A. No, I would not say that by any means.

Q. What amount was spent for that purpose? A. I could not tell you the full amount.

Q. Approximately? A. In that year?

Q. Yes. A. Well, I should say that the amount was primarily disbursed by us might reach \$15,000. It might reach more than that and it might reach less.

Q. Do you use the word primarily with any special significance? A. Only with reference to adjustment of account afterwards.

Q. You mean there might be other amounts that might be spent in adjusting accounts? A. No, I mean that that would be for the general expenditure.

Q. Well, why do you say primarily? A. Simply because it would be paid by us, and then there would be a balance in our favor, it would come back to us.

Q. Do you include in that, retainers that are paid to indi-



*Testimony of Warren F. Thummel*

viduals in various States to look after the Mutual Life's interests? A. Yes, I would think so. Now this is—that figure is a guess. It might be more and it might be less. I do not—I think, however, that that would cover it.

Q. Who represents you in the various States which are under your direct supervision? Will you enumerate the individuals that represent the Mutual Life in those States? A. In Virginia, Mr. Sands.

Q. Who is he? A. He is an attorney of Richmond. In North Carolina we have no representative. We have an attorney there that we employ whenever there is an occasion arises. I never had occasion to see him but once, and it was on a very small matter, and I think the fee he charged at that time was \$250. However, if I had occasion to go there I should see him. His name is Poe or Pou, I think (P-o-e or P-o-u). In Alabama we have nobody regularly who represents us. We have nobody in Michigan at the present time. Judge Grubbs represents us generally at Louisville in regard to all matters, but very little I would say in regard to legislative matters. Minnesota I know nothing about and never had anything to do with at all. In Oregon and Washington I don't remember that we ever had any representative at all. I think that whatever was done was done by the general agents and that would be so with all of the other States, I think. In Massachusetts we have no representative at the present time.

Q. Did you formerly? A. Yes, sir.

Q. Who was your agent there formerly? A. Mr. Walter J. Holden.

Q. Is he an attorney? A. No, sir.

Q. Have you made it a practice to travel about the country from time to time? A. I travel a great deal.

Q. Do you keep posted upon the bills that are introduced in various legislatures? A. I try to.

*Testimony of Warren F. Thummei*

Q. And what do you do actually in endeavoring to defeat such measures as you think are strike legislation or undesirable measures? A. Well, I try to get in touch with the situation, get acquainted with as many of the people that are interested in the matter as I can, and appear before committees and talk with the various members and present to them such arguments for or against as I possibly can.

Q. And you do this in a number of States? A. I have done that in a number of places and a number of States.

Q. And for a number of years? A. Six years. In addition to that, if I cannot do that work myself I employ somebody to assist me.

Q. Do you keep an account of your disbursements in connection with that work? A. Why, I keep no account of disbursements, except it would be on the occasion of the particular work, I would report whatever I disbursed. I would say that there would be no disbursements unless it was for assistance or, of course, my own personal account which I kept right along.

Q. For your own personal expenses? A. For my own personal expenses. There would be nothing else except I employed somebody to assist me.

Q. Where have you been this year, for example? A. This last year? I was in Michigan.

Q. What was going on there? A. There was a bill up to increase the taxation, as I remember it, one per cent.; it was two per cent. and the bill was to increase it to three per cent.; it might be  $2\frac{1}{2}$ , but I think three per cent. I saw an account of that bill and I thought it was a matter of importance and I went out there and I got in touch with the situation there. I found that the general agents of the company generally were very much exercised over the matter and I went to see the officers of the Michigan Mutual and had a talk with them about it, and laid the proposition before them that it was a matter of a great

*Testimony of Warren F. Thummel*

deal more interest to them than it was to us, for while the bill would not increase their taxes in Michigan any, they being exempt from taxes in their own State, under the reciprocal laws they would be required to pay that increased reciprocal tax in practically all the States that they operated in and it would be a very serious drain upon their treasury. I went to Lansing, and I was there for a day. I concluded that the general agents and the interests of the Michigan Mutual would be sufficient to take care of it and I came away.

Q. Well, what other trips have you made this year? A. And they did take care of it and the bill was defeated.

MR. PRENTICE: Speak a little louder.

THE WITNESS: I say they did take care of it and the bill was defeated. I employed nobody. Aside from that I went down to Florida.

Q. You have spoken of the general agents frequently acting in these matters. Do you authorize the general agents to spend such money as may be necessary for the purpose? A. I would not do that generally, no.

Q. Have you done it at all? A. I may have authorized some expenditures. I would say possibly I have, but as a general proposition I would not do that if I could have it done by somebody else.

Q. And who would do it normally? A. The general solicitor. Of course, if there was an emergency and I was on the ground I would authorize it and trust to have my authorization approved when I got back.

Q. Would it be a fact that a good deal of the money expended by the Mutual Life in preventing undesirable legislation would be spent by the general agents or from the funds of agency officers?

*Testimony of Warren F. Thummel*

A. Well, I would think not. So far as I had anything to do with that, it would not be expended from their funds at all because I **would instruct them to make vouchers and to send those vouchers** in direct so that they could be reimbursed, and it would not go in their agency account. Of course they might primarily use the money they had in their hands.

Q. To whom do those vouchers go? A. I presume they would come to the law department?

Q. And they would be approved by the law department and then sent to the cashier? A. No, sir, they would be approved by one of the executive officers, I would think.

Q. Mr. Granniss? A. Very likely.

Q. And then be paid in regular course? A. Yes.

Q. You were about to say you have been in Florida. Have you been anywhere else this year? A. Why I have made more or less trips, I think, but those are the only ones I remember in regard to legislation except that I was in Boston two or three times.

Q. Were you in Nebraska? A. No, I was not in Nebraska.

Q. You were there last year? A. I was there two or three years ago; three years ago.

Q. What was up there? A. A general revenue bill.

Q. How long were you there? A. I was there about four or five weeks.

Q. With what result? A. A very disastrous one as far as we were concerned. There was a combination——.

Q. You found it a rather hard situation to deal with, didn't you? A. There was a combination against us, we found it hard to overcome.

Q. What was that combination? A. A combination of the other corporations.

Q. What do you mean, the other insurance corporations? A. No, sir, it was a general revenue bill and every class of corporation

*Testimony of Warren F. Thummel*

was fighting it harder to get its own taxes as low as possible. The railroads were entirely too much for us. They had an organization complete before we even knew of the situation, and it was such that we could not touch it.

Q. Did not you find it possible by your arguments as to the injustice of the measure as it affected insurance companies to meet the concentrated efforts of the railroad companies? A. I did not. I was not magnetic to that extent.

Q. You thought you had the best of the argument but they had the best of the situation? A. I knew I had the best of the argument.

Q. And you were dealing I suppose with intelligent men? A. Well, I was dealing with a legislature (laughter.)

Q. Just what was the strength of the opposing parties, wherein did it lie? A. Well, I don't know. I never was able to find out where their strength laid. They had it, that was all. I tried to see if I could not get some aid and comfort from them but I could not. They talked very nice to me, but they would not do anything, they would not help in any way. The only person that I got any—well, I won't say assistance, but I got fair treatment from—was the representative of the Pullman company. And I was telling him one day about a bill that I had seen in another legislature regarding Pullman passes, and he says, "For God's sake don't say anything about that here." And after that he was very nice to me. That is the only comfort I got from any of them.

Q. Where else have you been in the last two or three years? A. I was at Colorado several years ago. I was borrowed at that time by the Equitable.

Q. How did that happen? A. They had nobody that they could send out and they wanted to know if I could go, and I was not busy just then and I said yes, and I went out there. The situation at that time was that a bill increasing the taxes had passed both Houses and was waiting the action of the Governor.

*Testimony of Warren F. Thummel*

I went out with the intention of making an argument to the **Governor**. I made up my mind, after I was there a little while, that I could not do it, and I employed an attorney and gave him sufficient information as regards the general subject of taxation so he could make the argument, and he made the argument before the governor and I came home.

Q. Does it happen from time to time that the railroad interest and your interests are on the same side, as a general proposition?

A. I would say that that never happens, as a general proposition there are efforts being made all along the line for increased revenues, and the subject of those attacks, if you will permit me to use that expression, are corporations generally. We have nothing in common with any class of corporation, not even the fire insurance corporations, because they are usually against us, that we can make a combination with. We make our own fights always.

Q. Have you ever appeared anywhere in support of railroad interests? A. No, sir.

Q. You spoke of your appearances in Washington. Have the insurance interests at any time directly or indirectly assisted the railroad interests there? A. Not to my knowledge. I never heard of it.

Q. There has been no suggestion, for example, in connection with the rate bills of the insurance interests with the railroads? A. I never heard of any such thing.

Q. What are your present retainers in Washington? A. I have none.

Q. Do you represent the three companies in connection with Federal insurance in the matter you have described, that is, you have spoken to them about it? A. I did, but that matter has been closed up for two years.

Q. Nothing at present pending in regard to it? A. I have nothing at present pending at Washington. Now, I have had

*Testimony of Warren F. Thummel*

several matters in Washington of importance to the insurance interests. The first one was in relation to the repeal of the revenue stamps.

Q. War tax? A. The war tax. It was brought to our attention that there would be a repeal of a portion of those taxes. We were anxious that ours should share in that repeal, and I spent all of that session, almost the entire session, at Washington, until that bill was passed and signed. That was successful.

Q. Who did you represent then? A. Well, I represented, I suppose—well I represented the Mutual and I saw no other representative of any life insurance company there; I would say that I represented the three companies in a general way, because I don't remember that I ever had—yes, I did. I have a number of interviews in regard to that matter with either the president of the Equitable or some of his assistants along that line.

Q. Who did you usually deal with at the Equitable? A. Well, now, that would depend. In matters of that kind I had consultations, as I say, with President Alexander two or three times. On general matters I talked with Mr. Mayne.

Q. Did you ever talk with Mr. Jordan? A. In regard to Massachusetts only.

Q. What did you do with Boston? A. Well, at what time?

Q. When you were there, were you there several times? A. Last winter?

Q. Yes, last winter, if that is the last? A. Why, I went to Boston for the purpose of a consultation with the attorney of the New England Mutual. He had said to me several times, knowing that we had Mr. Holden retained, that he thought that was an expense we might cut off, and he says, "If you will, I don't think that there are any matters that can come up that would affect the New York companies that would not equally affect the New England companies, and I look after matters for them, and consequently at the same time, in looking after their matters,

*Testimony of Warren F. Thummel*

yours would be protected, and I think you can save that expense." And Mr. Holden had ceased to be our representative and I went down there for the purpose of reminding him of that conversation and asking him if that would be true, and he said he knew of nothing but what would affect all companies equally, and he says if there is anything that affects the New York companies that don't affect ours, so that you would have to give personal attention to it or have somebody give personal attention to the matter, I would let you know.

Q. What had Mr. Holden done for you professionally when he was under retainer? A. Well, Mr. Holden had attended to the matters before in the Massachusetts Legislature. He was under an annual retainer and we registered him as we must do under the Massachusetts laws, and he did what was necessary, I presume.

Q. Not being an attorney, how could he represent you satisfactorily in the matter? A. Well, a man does not have to be an attorney to make an argument before a committee necessarily.

Q. Was that Mr. Holden's forte? A. I don't know what Mr. Holden did. I never was there with him. I know he took care of the matter so that there was no legislation that was adverse.

Q. Did he represent other companies? A. He represented the New York Life a part of the time and the Equitable as long as he represented us.

Q. Did he represent other corporate interests? A. I don't know.

Q. Had you ever gone on there when there was any bill pending? A. No, sir.

Q. Where have you been in recent years when matters have been pending in legislatures that you deemed inimical to your interests aside from those you have mentioned? A. I have been in Virginia and in Louisiana. I went down to New Mexico last year, for I found that between the time of my starting and get-



*Testimony of Warren F. Thummel*

ting down there that the bill had been introduced and passed by both houses and signed by the Governor, and I said, How do you do, to the Governor, and came back again.

Q. When it is necessary to disburse money in connection with these trips you go to the general agent, as a rule, do you? A. No, sir.

Q. What do you do? A. Why, it is not—let me see whether I understand you or not, what do you mean by the necessity of disbursing money?

Q. Just as I say, if you need to use money, where do you get it? A. Well, I don't need to use any.

Q. That is the fact, is it; I mean to say you do not have occasion to employ anybody locally in connection with these matters? A. Sometimes I do.

Q. When you do, where do you get the money? A. I let them make a voucher when the service is rendered, or before, if necessary, and I get the money from the office and send it to them.

Q. You have occasion from time to time to know whether any contributions are made for political purposes out of the funds of the Mutual Life? A. I would not know very much about that. It is a matter that does not come within my province.

Q. Do you happen to know of a contribution made to the Congressional Committee? A. Yes.

Q. When was that made? A. One was made last year.

Q. What was the amount? A. \$2,500.

Q. Which party? A. Republican.

Q. Also to the Democratic? A. I don't know.

Q. Was it not divided? A. Well, that was one that was not.

Q. Was there another one that was? A. I don't know anything about it. I said I did not know anything about the Democratic Committee.

Q. What reason was there for a contribution by the Mutual

*Testimony of Warren F. Thummel*

Life Insurance Company to a Congressional Committee? A. I don't know.

Q. How do you know it was made? A. Because I had personal knowledge of it.

Q. To whom was it made? A. Made to the chairman.

Q. Who was he? A. Mr. Babcock.

Q. By you personally? A. I handed it to him.

Q. Was it a check? A. No, sir.

Q. Cash? A. Cash.

Q. From whom did you get it? A. Why I got it from the cashier.

Q. On what authority? A. Mr. Granniss.

Q. Did you initiate the transaction or was Mr. Granniss the one who told you to do it? A. Neither one. They came to us, they came to me and said they would like to see Mr. Granniss. I took them up and introduced them, and after some talk they went away.

Q. Were you present during the conversation? A. How?

Q. (Question repeated). A. Why, yes, I was there.

Q. What was the ground on which the contribution was suggested? A. Well, the general ground was that there was great danger of a Democratic House, and that that would probably result in tariff agitation and other legislation attempted that would be of such a character as to upset business. That was the basis of the argument.

Q. And affect the interests of policyholders? A. It would very much.

Q. Did it have anything to do with Federal supervision of insurance? A. Nothing.

Q. That was not suggested in any way? A. So far as I know all that—I think all Federal supervision was over with at that time.

Q. Was it stated that any other insurance companies had con-

*Testimony of Warren F. Thummel*

tributed? A. The statement was made that either—either that they had or application would be made to them, but I am not very clear about that. And whether there was or was not I do not know, or whether there was any application made or not I do not know. But the general suggestion was that there was contributions of that kind.

Q. Did you have any information of any other political contributions made for the Mutual Life? A. No, sir, that is the only one I ever knew anything about.

Q. Do you know to what account that payment was charged? A. I do not.

Q. When you say that that is the only one you know of do you mean to include also contributions that might be made from general agencies or branch offices? A. I never heard of such a thing.

Q. And of course I am not now speaking simply of Congressional Committee, but contributions for political purposes to any party, national, local or state matters? A. That is what I understood.

Q. You have stated all you know on that subject? (No answer.)

Q. Have you dealt with anyone on behalf of the Equitable besides Mr. Mayne and Mr. Jordan and President Alexander? A. No, so far as President Alexander was concerned it was just a consultation in regard to the desirability of matters. So far as Mr. Jordan was concerned it was simply in reference to Massachusetts. Mr. Mayne took me down there one day to talk with him.

Q. It is suggested to me that the insurance business in the District of Columbia is under Congressional regulation. That is the fact, is it not? A. Well, I will tell you. Up until a few years ago there was practically no regulation in regard to insurance in the District of Columbia. There was a tax of one per cent and some kind of a regulation in regard to its collection, and a certifi-

*Testimony of Warren F. Thummel*

cate issued after the payment of the tax or possibly before it, that would entitle the company to do business there. Then a code of insurance law, if you will permit me to use that term, it is not accurate, was passed by Congress and now they have a department there.

Q. I want to put the question directly to you, so as to leave no misunderstanding as to your testimony, although I may have covered it already. I want to know whether you authorized or knew or were informed of any payments out of the funds of the Mutual Life Insurance Company directly or indirectly to any legislator in any State? A. Not once, not a single cent.

Q. Or to anyone who was in political relations with any legislator? A. No, sir.

Q. Through membership in any campaign committee or other connection with any political organization or otherwise? A. No, sir. The only disbursements that were made so far as I know anything about it, were to attorneys and agents that are entirely open to regular employment, and I don't know and never had any reason to think or to suppose that in any way any part or parcel of that money could get into the hands of any member of the Legislature whatsoever.

MR. HUGHES: That is all.

BY MR. WEMPLE:

Q. Has there been any substantial advancement in the matter of Federal supervision? A. Yes, sir, I think so.

Q. Have any bills been introduced in Congress looking towards that end? A. No. When the bill for the creation of the Department of Commerce and Labor was up, there was an amendment asked for in the House creating a department or a bureau of insurance similar to the bureau of corporations. That

*Testimony of Warren F. Thummel*

bill was defeated on the floor, but afterwards an amendment was incorporated in the section creating the bureau of corporations, giving the Commissioner of Corporations the same power in regard to the gathering, compiling and publishing of statistics of insurance companies as of all companies engaged in foreign or inter-state commerce, including insurance, I think it is pretty nearly the reading of the bill, and that is the first time, so far as I know, that the insurance companies were ever included in any general legislation.

Q. The constitutionality of that question has been involved, has it not? A. Oh, yes.

Q. With reference to direct legislation along that line? A. Yes, there is quite a controversy in regard to that.

Q. What is your opinion about the constitutionality of it? A. I think it is constitutional. If I had not thought so I should not have directed any effort in that way. I think this, that the question of taxation is one that pertains to the States. I doubt very much if Congress could limit that question, that is, I think that the State of New York, for instance, could, of course, fix the taxes for its own corporations, and if a company like the Northwestern Mutual, doing business in New York, I think that the State of New York could tax that company. I do think that Federal regulation would give a uniform system regarding life insurance to the country and would prevent a host of bills that every year are coming into the various legislatures all over the country and would result in a uniform system of doing business by the insurance companies, something that could be depended upon and would decrease the cost of doing business to the insurance companies very much, and, of course, anything that decreases the cost is for the benefit of the policyholders, because it would leave more money to pay the dividends.

Q. Would it be easier to regulate a standard form of policy under such a method of legislation? A. Do you mean as to

*Testimony of Warren F. Thummel*

the standard of fire? There is not any standard form as to life.

Q. There is not yet, but assuming that that would be feasible later on? A. I do not see how that could be, because there are so many different forms of policies.

BY MR. HUGHES:

Q. It is suggested to me, Mr. Thummel, that you desire to explain more in detail the nature of the legislation which has elicited these efforts on your part. A. Well, I would say generally this, that there are several classes of legislation that we meet constantly, in almost every legislature. The first and the most numerous one by a great deal being what is sometimes called strike bills. So far as I have observed, those bills are prepared by outsiders. Very seldom, I would say, by a member of the Legislature, and they are presented usually to some new member of the Legislature and with a—I am drawing on my own idea for this part of it—with probably the suggestion that it would redound to his reputation, and it is introduced. Then, of course, the natural result would be that the people who were responsible for its introduction would seek employment and try to kill it. There are a good many of that class of bills at one time and another. Then there is another class which is very much more dangerous to the companies that require a great deal more effort to prevent their becoming laws, and that is the class of bills that are inspired by other corporations for the purpose of relieving themselves in some manner from some obnoxious provision of the law. Usually it would take this form, that there was some regulation required by a corporation that had a small revenue to it, and for the sake of illustration we will say that the entire revenue to be derived from that particular part might be \$5,000 in the State, and the corporations that would be affected by that

*Testimony of Warren F. Thummel*

would introduce, or have introduced, a bill changing the revenue act. And it would be very likely to pick upon the life insurance premiums as the vehicle to convey more taxes into the treasury of the State. And somewhere in that bill there would be a provision that would repeal the particular provision. Along in that line I know of at least two instances where the fire insurance companies have sought to be relieved of what to them were very onerous provisions through the medium of a general insurance bill that would have a repealing clause in that would repeal those provisions to which they objected.

Another class of bills that are very vexatious are bills that are presented by attorneys who have been unsuccessful in litigation. There are not very many of these, but there are some, and they have been unsuccessful because of certain provisions in policies. I have known this to happen in both fire insurance and life, and they would introduce an act which would make that particular provision of a policy null and void in the future. Then there are the class of bills that I call honest bills, and that is sub-divided into two. The first class might be a very mischievous bill but the framer of it—and he is usually a member of the Legislature as far as that is concerned—would be honest in his conviction and really would be seeking to do good to the general subject, and then there is the bill that is prepared by the man who knows what he is talking about and that is actually for the good of the business, that will meet a defect in the law, and that kind of a bill we are always very glad to see enacted into a law. Anything that is for the good of the business we are always very glad to see passed.

Q. How many policyholders approximately has the Mutual Life in the State of New York? A. I don't know, sir.

Q. Did it ever occur to you that if a measure was introduced into the legislature that was inimical to the interests of the policyholders of the company, and they were acquainted with the facts

*Testimony of Robert H. McCurdy*

a very strong public sentiment would be created against the passage of the measure? A. That is exactly what we tried to do in that Iowa matter, and we showed them by every means possible, that is, it was done; I have no personal supervision of it; I only saw the literature from time to time. The State was flooded with letters, circulars, the editorials in the papers, and that sort of thing, and the result was not what I had hoped that it would be right along the line that your question suggests. The tax is an indirect one and it is pretty hard to get much co-operation in that line.

Q. You think that the policyholders are really not sufficiently alive to their interests? A. I think this, that if the companies had relied upon the policyholders to defeat bad and vicious legislation that three-fourths of all the bills that have been presented in the last five years would have been enacted into laws and that the expenses of the companies would have been increased to an extent that would be frightful to contemplate.

Q. Perhaps a little experience of that sort would make the policyholders more sensitive to their real interests in the matter?

A. That is possible, but the probabilities are that they would simply damn the companies for not having properly attended to things.

MR. HUGHES: That is all, Mr. Thummel.

ROBERT H. MCCURDY, called as a witness, being duly testified as follows:

BY MR. HUGHES:

Q. Mr. McCurdy, you reside in Morristown, New Jersey? A. Morris Plains, New Jersey, sir.



*Testimony of Robert H. McCurdy*

Q. And you are an officer of the Mutual Life Insurance Company? A. I am.

Q. What office do you hold? A. General manager.

Q. How long have you been general manager? A. Since July 1, 1903.

Q. What is your salary? A. \$30,000.

Q. What are your duties? A. My duties, under the by-laws, provide that the president and vice-president shall have power to delegate in their discretion certain of their duties to an officer to known with the title of general manager, so that I perform such duties as are delegated to me. Principally my duties consist of the supervision and a direction of the agency matters both at home and abroad.

Q. Have you a contract with the company relative to such matters? A. I have no contract other than my appointment, my election and salary.

Q. Have you a contract for compensation with reference to the business transacted abroad? A. I had a contract when I was superintendent of the foreign department. The last contract, I believe, was made in 1901, providing for the payment of a renewal commission on such business as was done through the foreign department for a duration of seven years. Since I have become general manager I have collected those renewal commissions under that contract, but I have no interest in any business done since my election as trustee and general manager.

Q. Have you here a copy of the contract? A. I have here, Mr. Hughes, a statement giving all contracts that I have ever had with the company and a general statement of my relations with the company since 1881. Inasmuch as my relations have been very broadly misquoted in newspapers I dictated such a statement after an examination of the contracts and books to my stenographer. I have that statement here and I should like the privilege of reading it.

*Testimony of Robert H. McCurdy*

Q. You may read it. In the year 1881 I entered the office of Charles H. Raymond, the then general agent of the Mutual Life Insurance Company for New York City. I became a junior clerk with the usual clerical duties, and at a salary of \$1,000 a year. Col. Raymond had been an old friend of our family, and had known me intimately from boyhood, and at the end of the year, made me a partner in the business, and gave me one-fourth of the net profits.

Q. Pardon me a minute. What was your age at that time?

A. When? When I went in with Charles H. Raymond?

Q. In 1881, yes. A. I was 22 years of age.

Q. It was at the end of 1881 that you were made a partner? A. It was at the end of 1882. I served one year on a salary of a thousand dollars.

Q. Yes. A. All insurance companies at that time, as most companies still do at present, farmed out territory to agencies and paid the agents on a commission basis. These commissions are merely gross sums, from which the heavy expenses of the agency must be deducted to ascertain the net profit. The general agents, in addition to paying all the expenses of procuring insurance within the limits of the agency, including the large commissions paid sub-agents and solicitors, further incur all the risks of losses which might be caused by the defalcation of sub-ordinates or other casualty. In other words, the general agents make themselves responsible to the company for the business which they secure and for the payment of the premiums due thereon, and the amount of their profits is wholly dependent upon the amount of business which they secure. It is the method by which the insurance companies of this country were built up and, while it is the present policy of our Company and some other companies to transform all such agencies into salaried positions, the question is still to be solved whether the salary system, which to some extent takes away from the agent any incentive to de-

*Testimony of Robert H. McCurdy*

velop the business of the company, will be as effective as was the old managing agency system on a commission basis.

Q. Would you mind reading a little louder and a little more slowly.

Q. May I stand up? A. Certainly, I will be very glad to have you. A. I can read a little better, possibly.

Late in 1885 the company decided to secure business in foreign countries, and as some small amount of business of this character that the company had previously done had been carried on through the New York agency, I was appointed on January 29, 1886, Superintendent of the Foreign Department. The fact that I had been partly educated abroad, spoke several foreign languages, and had travelled extensively, may also have influenced my selection. The appointment was made by Mr. Robert A. Granniss, Vice-President, and Mr. William J. Easton, Secretary of the Company, and it was agreed that I was to receive, as compensation, 5 per cent. upon the premiums collected. While this commission seems large, it should be remembered that there was then practically no business and that it had to be created.

Q. Pardon me a moment. Does that mean five per cent. on all premiums, first and renewals? A. Yes, sir. It was so uncertain whether the foreign business could be developed by an American company, that I retained my connection with the New York agency and paid my commissions as Superintendent into the firm of Charles H. Raymond, thus making the Foreign Department virtually a part, for the time being, of the New York agency. How difficult the creation of new business was may be judged by the fact that during the first year only \$17,190 was collected in premiums, upon which my entire compensation for establishing agencies in different countries was only \$859.50. Agencies were gradually established in the following order: Mexico, Hamburg, Chili, Peru, Bavaria, Berlin, Australia, Porto Rico, Great Britain, Belgium, Denmark and Norway,

*Testimony of Robert H. McCurdy*

Italy, Austria, Hungary, South Africa, Holland, Spain, Sweden, the Levant and Japan.

I submit, for the information of your Committee, a statement by years, showing new premiums, total premiums, new insurance established, insurance in force, death claims paid, and the percentage cost, and shall be pleased to furnish your Committee with any other details that you may desire.

Q. Have you the statement here? A. The statement is here, sir.

Q. And we will put that in evidence at this moment in connection with your statement.

(Marked Exhibit 253.)

MR. HUGHES: From this it appears that the new premiums at the end of 1886 amounted to \$17,190.02; that the total premiums for the year amounted to \$17,425.68; that in 1890 there was an increase in new premiums of \$628,991.94, and net total premiums received \$1,396,108.92. In 1895 the new premiums amounted to \$1,051,427.85 and the total premiums to \$4,846,547.64.

In 1900 the new premiums amounted to \$1,305,540.81 and the total premiums to \$7,920,573.09. In 1903, the last year given—

Q. Where is 1904? A. 1903 was my last connection with the Foreign Department.

MR. HUGHES: I see. 1903 the new premiums amounted to \$1,789,225.48, and the total premiums to \$10,579,695.56.

• It also appears that the insurance in force in 1886 was \$646,771 and in 1903 \$254,494,390; that the death claims paid

*Testimony of Robert H. McCurdy*

were \$19,909.60 in 1887 and \$2,532,668.90 in 1903; that the cost in percentage in total outlay—.

Q. I assume that means total outlay in the Foreign Department? A. For all expenses of the foreign business in New York as well as abroad. That is, to say, clerk hire, rent here in New York—everything.

Q. That is pertinent to that business? A. Pertinent to the foreign business.

MR. HUGHES: That the cost in percentage of outlay to total income in 1886 was \$233.73 per cent., reduced to 87.24 per cent. in 1887 and coming down to 50.30 per cent. in 1900, 31.96 per cent. in 1895, 30.30 in 1900 and 27.31 per cent. in 1903, there being two years lower than 1903, to wit, 1901, when the percentage was 26.71 and 27.15 in 1902.

(Exhibit 253 will be found in the book of exhibits.)

Q. Proceed with your statement, please, Mr. McCurdy. A. At the end of the year 1888 my commissions from the foreign business amounted to \$23,522.61.

Q. You mean for that year? A. For that year, yes, sir. At my own suggestion and request this was reduced from 5 per cent on all premiums, which included renewals, to 5 per cent on first year's premiums, 3 per cent on renewals, and 2½ per cent on annuities. I may see here, as explaining this reduction as well as the future reductions to which I shall refer, that while the company has the right at any time to terminate my contract as to all future policies, I had fixed contract rights in all business theretofore placed, and I was legally therefore entitled to 5 per cent. upon all future premiums on business established from

*Testimony of Robert H. McCurdy*

1886 to 1889, which in the future would have amounted to a considerable sum.

Q. Do I understand that you relinquished that contract right, or that it continued? A. I am coming to that, sir. I relinquished it. But at my own suggestion the reduction to which I have referred was made retroactive and applied to premiums upon past policies as well as those to be secured in the future.

My income in the year 1889 amounted to \$42,456.41. On April 18, 1890, I again requested a reduction as from the first of January of that year, to 2½ per cent on first year's premiums, on renewals 2 per cent for five subsequent years only and 1 per cent for five years thereafter; and as to past contracts, as to which my rights were fixed, I suggested that the renewal premiums which had previously drawn 3 per cent commissions should thereafter draw but 2 per cent until the expiration of the fifth year, and thereafter for five more years at the rate of 1 per cent only. This rate of compensation continued for two years. At the end of that period the business had grown so that in the year 1891 my commissions amounted to \$51,626.07. I then addressed a letter to the president of the company, in which I said:

"In view of the rapid increase in the amount of the business, and especially of the renewal premiums, and the fact that the present arrangement is a very complex and difficult one to properly check and audit, and furthermore in view of the fact that during 1890 the renewals to the general agents in the United States were reduced from ten to six years, it is hereby suggested that the terms of the above described arrangement be reduced to the following, viz.:

For the year 1892:

A commission on first year's premiums of 2½ per cent.

A commission on all renewal premiums of 1 per cent.

A commission on single payment life or endowment, 1 per cent.

A commission on single payment annuities, 1 per cent."

*Testimony of Robert H. McCurdy*

The business continued to grow throughout the world beyond any anticipation; and on May 28, 1897, I addressed a letter to the President of the Company, in which I again suggested the propriety of a further reduction in my rates of commission:

That letter was as follows: "In view of the continued increase of the insurance——."

Q. Pardon me a moment. Will you state what your income was while this last arrangement was in force from 1892 to 1897?

MR. BECK: That is a part of the statement.

Q. You have a complete statement? A. I have a complete statement.

Q. Then we will put that in when you get through with the part you are now stating. A. The last letter which I wrote to the president on May 28, 1897, was as follows:

"In view of the continued increase of the insurance in foreign countries, I now suggest that the commission paid me on first year's premiums be further reduced from  $2\frac{1}{2}$  per cent. to 1 per cent."

This reduction, approved by the vice-president, general manager and auditor of the company, established a commission of 1 per cent. on first year's premiums, with a renewal commission of 1 per cent. on six subsequent premiums.

On December 26, 1900, I wrote the following letter to the then General Manager of the Company and suggested in view of the great growth of the Company's foreign business, that a further reduction should be made.

At present my contract with The Mutual Life Insurance Company of New York, as Superintendent of the Foreign Department, provides for a commission of one per cent. upon all life insurance premiums and annuities issued through the Foreign

*Testimony of Robert H. McCurdy*

Department, and in the event of my death, resignation or removal from office the Company is to pay me, my executors or assigns a renewal commission of one per cent. during seven subsequent years on all the premiums collected upon insurance in force at the time of such death, resignation or removal.

Following previous precedent, I now suggest, in view of the continued growth of the foreign business, that hereafter, beginning with the accounts for January, 1901, my commission on first year's premiums be suppressed, but that in other respects my contract as above recited be continued."

On June 2, 1903, I tendered my resignation as Superintendent of the Foreign Department, and on June 12th was elected General Manager of the Company at an annual salary of \$20,000, which was increased on July 1, 1904, to my present salary, which is \$30,000 per year.

I repeat that all of these reductions were made at my own instance, and because I deemed them fair, in view of the unexpected growth of the foreign business of the Company. All were retroactive and affected insurance placed prior to such reductions, respectively, and as the Company had no power to reduce my interest in such commissions, my voluntary surrender of them saved the Company many thousands of dollars.

It is true that at the date of my election as General Manager, in addition to my salary I had the commissions last referred to of 1 per cent. on seven renewal premiums only, upon all foreign policies placed during my superintendency of the Foreign Department. But these are constantly decreasing owing to lapse, surrender or death, and the last of them will cease in the year 1910. In accepting a salaried position in lieu of my commissions on future new business, I will ultimately have substituted for a large income a relatively small salary. Let me add that this is the only salary that I receive from the Mutual Life Insurance Company or from any other company.



*Testimony of Robert H. McCurdy*

I am aware, notwithstanding the reduction from time to time in the rate of commissions, that through the remarkable and unexpected growth of the business of the Foreign Department my commissions have reached a large sum, but the Committee should remember that they are commissions on a business which had no existence before I organized the Foreign Department, and that my duties as Superintendent were both onerous and responsible. I not only had to supervise the establishment of agencies in many parts of the world but also the preparation of the various contracts in different languages and the creation of a financial system whereby the company could carry out its contracts in different currencies and in all parts of the world at the minimum of expense. I developed the business in each country on different lines, after a careful study of local conditions, and this required repeated visits to the more important agencies in foreign countries. As a result of eighteen years' work, the business has grown to such an extent that the premiums received from foreign agencies in 1903 amounted to \$10,579,695; and from the inception of the department to the end of 1903 the total premium income was \$82,271,466, and the insurance in force aggregated \$254,494,390.

As an evidence of stability, we have from time to time bought real estate or erected buildings in Berlin, Paris, London, Sydney, Cape Town and Mexico. While the expenses of this department have been necessarily large, yet they have all been paid for out of the proceeds of the Foreign Department, with the exception of about \$57,000, which in the first two or three years of the foreign department was advanced by the company, to start its business.

With this exception, the entire losses and expenses, including those in New York, of the foreign business, have been met by its own receipts.

Moreover, the ratio of expense to total receipts has steadily

*Testimony of Robert H. McCurdy*

decreased, until in the year 1903 it was 27 per cent. which is not higher than a like ratio upon the company's insurance in this country.

I believe that the accounts of the Foreign Department, which, as stated, are kept separately from the other business of the Company, and which are open to your inspection, are not surpassed in accuracy and completeness by any accounts in any business.

I have made this somewhat lengthy statement, not only to save the time of the Committee, but because of an impression which is said to prevail that the foreign business of the Company is a relatively heavy burden to its finances, and that I have unduly profited by such business. Had I stood upon my contract rights as to commissions, which the Company could not modify, I would have received very much larger sums; but my earnest purpose to keep my personal return from a business which I had largely created, a reasonable amount, is best manifested by the facts which I have stated and which are submitted for the fair consideration of the Committee.

I would like to present to you, Mr. Hughes, a full record of the foreign department in 1886 to 1904 inclusive.

MR. HUGHES: I offer this record in evidence.

(Admitted and marked Exhibit 254, and will be found in the book of exhibits.)

Q. When were you born, Mr. McCurdy? A. The 26th of May, 1859.

Q. And when did you graduate from college? A. Graduated in the spring of 1881.

Q. And what did you do then? A. After I graduated I went to Europe and traveled until November or December, when I re-

*Testimony of Robert H. McCurdy*

turned and entered the office of Mr. Charles H. Raymond's general agency.

Q. Did Mr. Charles H. Raymond, prior to that time have a partner? A. He had. He had none at that time.

Q. For how long had he been without a partner? A. I can't say. It was several years.

Q. You were with him for a year as junior clerk, then in 1882 you entered the firm on the basis of a division, three-quarters to Mr. Raymond and one-quarter to you of the net profits? A. Yes, sir.

Q. What was Mr. Raymond's contract with the company at that time? A. I can't give you all——

Q. I mean Mr. Raymond—I mean the firm as so constituted. A. Yes. I can't give you the rate of commissions that he received, because I have forgotten them long ago.

Q. I suppose you have that contract?

MR. BECK: Mr. Hughes, I think I can give it to you. I thought Mr. Bell was here with all those original contracts. We will submit the original contract. This (handing paper to Mr. Hughes) only goes back as far as 1888.

Q. A statement is produced here of the commission which I understand were payable to C. H. Raymond & Co. from 1888 to 1903 inclusive. Are you able to state whether prior to 1888 and from 1882 there was any different rate of commission paid, or may we assume that to be complete? A. A different rate of commission?

Q. Yes, either more or less. A. It is my impression that the rates of commission were about the same from 1881 to 1888.

Q. And from 1888 on were they the same as they had been previously? A. They apparently in 1891 were increased.

Q. Well, we get the original figures which will be more satis-

*Testimony of Robert H. McCurdy*

factory. I understand that this statement now furnished me is a correct statement of the commissions of that firm from 1888 to 1903. A. I haven't seen the statement before, sir, but I presume it is; it is made by the bookkeeper.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 255 and will be found in the Book of Exhibits.)

Q. At the time that you went in with Mr. Raymond was a new contract made with the firm of C. H. Raymond & Company? A. The contract with the company was renewed.

Q. Every year? A. Every year.

Q. Did that continue to be? Was it a contract only for one year? A. With the company?

Q. Yes. A. Yes, sir.

Q. And that has always been the case? A. I believe it has. There may have been some exceptions, but that is the custom.

Q. Now, what was your income during the years 1882 to 1886 as a member of the firm of C. H. Raymond & Company? A. I haven't been able to find any record of that, Mr. Hughes. In fact, I have asked the cashier of the agency to furnish me those figures and he tells me that back of 1888 he can find no records.

Q. Well, I presume you can give it to me approximately? A. It is difficult for me at this length of time to say. During the first—from 1886 to 1888, you say?

Q. No. You became a member of the firm in 1882, I believe? A. 1882. I really can't give you any approximate amount without—I can find my old check books and so on.

Q. I suppose Mr. Raymond's business as Metropolitan agent was pretty well established at that time? A. It was a pretty good business for those days, yes.

*Testimony of Robert H. McCurdy*

Q. He had been alone or with partners Metropolitan agent for a number of years, had he not? A. He had.

Q. You have already stated that your income in 1889, as I understood you to say, was about \$42,000 from C. H. Raymond & Company, is that right? A. I think that was from the foreign business.

Q. Not from the foreign business. Now, does it come to your mind whether before the foreign business grew to any large proportions your income had been about the same from the firm of C. H. Raymond & Company? A. I really can't recall what it was.

Q. Well, you came out of college and you went in as a clerk at a thousand dollars a year, and I suppose the next year or a year or two afterward you got a good deal more as a partner? A. The first year I didn't because in 1883 I had no business under that—the copartnership had renewed. I had only what profits were made on the first year's business, which were small. After that, as the renewal commissions were paid, I naturally received one-fourth, so as the years went on that income increased.

Q. Well, have you no recollection of about the amount that you received? A. I think not, Mr. Hughes.

Q. You don't know whether it was as much as \$10,000? A. During what years?

Q. Well, take 1884? A. 1884, that was—I don't think it was \$10,000, in fact, I should be quite positive that during 1884 that was not worth \$10,000.

Q. Well, when do you think it reached as much at \$10,000? A. After possibly six or seven years. I should think—five or six years. It is impossible for me to say with any accuracy.

Q. The business of establishing, or rather, the project of establishing, a business abroad was under consideration for some time? A. I don't know, sir, how long.

*Testimony of Robert H. McCurdy*

Q. Who brought it first to your attention? A. The President of the Company.

Q. It was thought to be a good opening for the company? A. It was.

Q. Any calculations made as to the prospective profits? A. In a general way we knew that the New York Life and the Equitable had been doing a foreign business for a number of years. I had made some inquiries into the business of European companies previous to that in England, in Holland, I recollect, and in France.

Q. Was the contract that was made with you a contract for a term of years? A. No, sir; it was at the pleasure of the company.

Q. The contract rights that you speak of, were rights in business that was written during the time that the company permitted the contract to continue? A. During that time and the subsequent renewal premiums, which would have borne that rate of compensation.

Q. When you spoke of your contract rights that you relinquished, you had reference, I understood, to rights in the renewal premiums paid upon business that had been written while your contract at the former rate was in force? A. Yes.

Q. You started, as I understand it, with five per cent. on the first premiums and that continued until 1890. Without going over the various reductions, to which you have testified, can you present a statement which will show just what was received by you from the foreign business during these years? A. Yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 256 and read by Mr. Hughes.)

*Testimony of Robert H. McCurdy*

Q. Now, are all those moneys issued out of the foreign business under your contract with the company as made from time to time, payable to you? A. Yes, sir.

Q. Did you receive those moneys yourself? A. These sums?

Q. Yes. A. Yes, sir.

Q. Now, having received these profits, there was a time—I mean by profits these sums according to your contract relating to the foreign business—there was a time when you paid them over to the firm of C. H. Raymond & Company?

A. I paid one-half to Mr. Raymond, one-half of the receipts which I got from the foreign business.

Q. Then the amounts did not go into the firm to be distributed, but as you got the moneys from the company on the bond business you paid Mr. Raymond one-half? A. One-half.

THE CHAIRMAN: Mr. Hughes, we will have to adjourn for lunch.

MR. HUGHES: Mr. Beck suggests that we get one item on the record before we adjourn.

Q. During what years was Mr. Raymond paid by you one-half of the amount that you received on the foreign business:

A. From 1886 to 1892. That was six years.

THE CHAIRMAN: We will take a recess until 2.15 o'clock.

## AFTER RECESS.

WARREN F. THUMMEL, resumed.

BY MR. HUGHES:

Q. You have stated to me that you desire to add something to the testimony that you have given? A. Yes, sir. I desire to say two things. One is that I was asked this morning in regard to visiting legislatures. I want to say that I have met a great members of various legislatures in the past year. I know a good many of them, and in no instance in talking with them has any one of them ever made any suggestion to me in relation to any money or any other consideration to go to them. I wanted to make that statement in justice to the members as well as in justice to myself. I also want to make this statement. In recalling my testimony of this morning I find I have omitted an explanation that I had intended to make. I did not mean to be understood as saying that Mr. Granniss had charge of legislative matters. All such matters were in charge of the general solicitor. The matters were discussed and authorized by him and if matters of expenditure were submitted for approval, for payment to any executive officer most convenient. Matters of policy, the matters pertaining to the good or evil effect of proposed legislation, was what I had in mind in answering questions referring to Mr. Granniss. The general solicitor had full charge of all matters I have had connection with and all matters pertaining to legislation.

Q. Who was the general solicitor? A. Mr. Short.

Q. He died some time ago? A. Yes.

Q. How long had he been general solicitor? A. Well, before my time.



*Testimony of Robert H. McCurdy*

MR. HUGHES: Mr. McCurdy, will you resume the stand.

ROBERT McCURDY, resumed.

BY MR. HUGHES:

Q. I think you said that for seven years what you received from the foreign business to the amount you have stated was paid over to C. H. Raymond & Company, I mean to say one-half that you received was paid to C. H. Raymond? A. Yes.

Q. During what years did that take place? A. That was from 1886 until 1892 if I recall right.

Q. And during those years did you receive in addition to the one-half of the amounts paid to you upon the foreign business a share of the profits of C. H. Raymond & Company? A. I did.

Q. And what was the amount that you received in that way? A. That I am not able to say, until 1888.

Q. Well, commencing with 1888? A. I think you have the statement before you. I have not it.

Q. Of your receipts? A. No, sir, of the commissions.

Q. That is the rate of commission, but I mean the amount you personally got? A. Mr. Bell, is he here?

MR. BECK: I sent Mr. Bell to my office for a few minutes.

THE WITNESS: Does Mr. Vesey know? Can you give me that information, if I received any commissions?

MR. VESEY: No.

THE WITNESS: Mr. Bell has that information.

Q. And he will return shortly? A. Yes.

*Testimony of Robert H. McCurdy*

MR. BECK: I think I have it here.

THE WITNESS: I think we had better wait until Mr. Bell comes.

MR. BECK: Mr. Bell went to my office. Just ask some other question and I will have it for you in ten minutes.

Q. Then, from 1892 on you did not pay any portion of the sums you received on the foreign business over to C. H. Raymond & Company, or to C. H. Raymond? A. Yes, I paid him his half interest in the renewal of that business.

Q. How much did you pay him in dollars and cents? A. I cannot say.

Q. You have a statement of that, I suppose? A. I can get you that statement.

Q. How long was it that you paid him one-half of the renewal? A. One-half of the renewal. It was during six years, that is to say, the continuation of his interest, his half interest.

Q. Oh, a half interest on the renewals of the business which had been written prior to 1893? A. That is right.

Q. And that was until the termination of your interest in those renewals out of which the one-half was paid? A. Yes.

Q. But so far as business written after the year 1892 is concerned did you pay him any amount out of the sums coming to you? A. No, sir.

Q. Did you after 1892 receive any interest in the profits of C. H. Raymond & Company? A. Only the collection of the renewal commissions to which I was entitled on business done prior to 1892.

Q. Have you a statement of the amount you so received? A. No.

Q. You can easily get that for me? A. Yes.

*Testimony of Robert H. McCurdy*

Q. Those renewals on which you paid Mr. Raymond terminated then in 1897? A. Within six years, they carried through 1897, I think.

Q. And from that time you have paid over none of the amounts you have received from the foreign business to Mr. Raymond or to the firm? A. No.

Q. Have you paid over to any person whatever, aside from Mr. Raymond or the firm, any portion of the moneys received by you upon the foreign business? A. No.

Q. You have kept them all for your own use? A. Yes.

Q. And when was it you said you were first put upon a salary? A. July 1st, 1903.

Q. And in 1903 you got \$15,000 for the six months—or \$10,000 for the six months? A. \$10,000.

Q. Making the entire amount you received from the Mutual Life Insurance Company \$109,175.99 for the year 1903? A. Including the renewal commissions which I was entitled to under my contract.

Q. Did you receive moneys from any other source than the foreign business to the extent that you have stated and your salary? A. No, sir.

Q. From 1898 have you received any moneys from C. H. Raymond & Company? A. No, sir; that is to say, no moneys of any amount. Some deferred premiums, some few policies that might have been reinstated, amounting to a few hundred dollars.

Q. In 1904 you received for the first half of the year \$10,000, for the last half of the year \$15,000, as salary, and \$9,531.79 from the foreign business. That was all that you had from the company? A. Yes.

Q. I see you say here to August 31, 1905, from the foreign business, \$62,573.70. What do you estimate your receipts

*Testimony of Robert H. McCurdy*

will be for the entire year from the foreign business? A. May I look at that statement a moment?

Q. Yes (handing paper). A. I should say about \$80,000.

Q. Which will make your receipts, including your salary for this year, about \$110,000? A. Yes.

Q. When did Mr. Thebaud become a member of C. H. Raymond & Company? A. In 1892 or beginning of 1903.

Q. What is his age? A. He is practically the same age as myself, within a few months.

Q. About forty-five? A. About forty-six.

Q. Had he been connected with the company prior to 1892? A. He had; yes.

Q. Is he a connection of yours? A. He is a brother-in-law.

Q. He married your sister? A. Yes.

Q. And when did he first become connected with the company? A. In 1897, I should say.

Q. In what capacity? A. In the office of the general agent for the State of New Jersey in Newark.

Q. How long did he remain there? A. He was there, I should think, five or six years.

Q. Went from there to C. H. Raymond & Company? A. No, he was in charge of a department, an agency department of the company known as the executive special agency.

Q. What was that? A. That was a corps of agents who had no specified territory but who went about the country soliciting principally large risks. They were practically traveling special agents.

Q. To deal with important men from whom large business could be obtained? A. Yes.

Q. What commission did he get upon such business? A. I don't know, sir. I was not an officer of the company at that time.

*Testimony of Charles H. Raymond*

Q. How long was he engaged in that work? A. Until about 1893, when he went into Mr. Raymond's office.

Q. And what interest did he have in C. H. Raymond & Company when he went in there, or did he have any? A. I don't know.

Q. Well, you were a member of the firm, but not at that time? A. Not at that time.

Q. So when you left the firm he went in? A. Yes.

Q. Did he take the same interest in the firm that you had previously had? A. I don't know what his interest was.

MR. BECK: He had a one-fourth interest if you want the fact.

Q. One-fourth, I am informed of the profits of C. H. Raymond & Company. And are you able to state whether this interest has changed since then?

MR. BECK: To a half and three-quarters.

MR. HUGHES: When did it become a half?

MR. BECK: I cannot say. His partner is here.

CHARLES H. RAYMOND, called as a witness, being duly sworn, testified as follows:

BY MR. HUGHES:

Q. Mr. Raymond, what is your age? A. I am nearly seventy-two years old, sir.

Q. When did you first become connected with the Mutual Life Insurance Company? A. In 1873; that was thirty-two years ago.

*Testimony of Charles H. Raymond*

Q. In what capacity? A. I entered into partnership with the then general agent, John A. Little.

Q. For what district? A. For what is known as the Metropolitan District, covering this city and some adjacent counties.

Q. And what was the name of the firm? A. The style of the firm was Little & Raymond.

Q. And did it have charge of the entire business in the Metropolitan District? A. They had not. There was one other agent here at the time who had been appointed in some previous year before the general agency was established, and he continued to act as an independent agent.

Q. Who was he? A. His name was Brown.

Q. How long did he continue to act as an independent agent? A. I don't remember, sir. He continued until his death.

Q. When was that about? A. I do not remember, Mr. Hughes.

Q. But apart from his action independently the firm of Little & Company represented the Metropolitan district? A. We had charge, sir, of the agents in this department.

Q. How long did that firm continue in business? A. The organization was established for five years. Mr. Little was the general agent and his name was the name of the senior partner in the firm, as I have stated. Two years from that time we changed the firm, because I was made general agent of the company in his place, he resigning, and I took then the name of Charles H. Raymond, general agent, and carried on the co-partnership in that name.

Q. Well, he was still your partner? A. He was still my partner.

Q. And how long did that continue? A. That continued, with certain renewals of the articles, until 1883.

*Testimony of Charles H. Raymond*

Q. Well, until the time that Mr. R. H. McCurdy became your manager? A. Exactly.

Q. Did Mr. Little remain in partnership—during all that period? A. He did.

Q. Then he retired, and the only other member of the firm beside yourself was Mr. R. H. McCurdy? A. That is true.

Q. I have been shown here a statement of the rate of commission that was paid to C. H. Raymond & Company during some of these years, which show that in 1888 the commissions paid to C. H. Raymond & Company upon the first year's commissions was 45 per cent to 65 per cent? A. A graded commission, yes, sir.

Q. You recall that. Can you tell me how it was graded, upon what business 65 per cent was paid? A. 65 per cent was paid upon policies having longer terms of deferred premiums. I think at that time that was done.

MR. BECK: Mr. Hughes, that there may be no apprehension, will you kindly ask the witness whether that is gross or net commissions? It is not to be suggested that C. H. Raymond & Company got 65 per cent commissions altogether.

Q. Well, I understand it to mean that on certain business C. H. Raymond & Company got 45 per cent on first year's premiums? A. We did, sir, on first year's business.

MR. BECK: I simply wanted to bring that out.

MR. HUGHES: We will come to that later.

Q. The minimum rate was 45 per cent and the maximum was 65 per cent, and can you tell me what proportion of your business was done at or above 65 per cent? A. Well, the average of the business which was done at the larger rate of commis-

*Testimony of Charles H. Raymond*

sion increased from year to year as the efforts of the agency were very naturally to direct the business into the highest paying commission. I can't tell you the proportion, Mr. Hughes.

Q. So that the larger business done was at the larger rate of compensation? A. Naturally.

Q. Now I see there was a rate of commission on renewal premiums which is stated here to be 5 of 10 to 10 of 10, 30 and 5 of 5 to 5 and 10 of 5. Now, will you kindly expound that? A. I will try and explain it, sir. The 5 of 10 means that there were five years renewal commissions paid as the premiums were paid of 10 per cent. of those premiums.

Q. What is that? Pardon me. You mean the number of years were five years? A. Five years, sir.

Q. And the rate of the compensation was 10 per cent of the renewal premiums for five years? A. You have explained it, sir.

Q. Go on. A. The 5 of 5 is five years renewal commissions with 5 per cent each, and the 30 refers to the first year's commissions.

Q. In other words, where the first year's commission was 45 to 65 per cent, the renewal ranged from five year renewals with 10 per cent of the renewal premiums to 10 years renewals with 10 per cent of the renewal premiums? A. Exactly, that is so.

Q. Then there were other cases, in which the commission was 30 per cent of the first year's premiums, and five renewal commissions of five per cent of the renewal premiums ranging to 50 per cent of the first year's premiums and 10 per cent of the renewal premiums for five years? A. Yes, sir.

Q. Were these policies the business upon which the larger rate of commission was paid, preferred dividend policies? A. I think they were.

Q. Was it the policy of the company to pay a larger compensa-



*Testimony of Charles H. Raymond*

tion to the agents for securing deferred dividend business? A. Yes, sir.

Q. Has that remained so continuously? A. Until now.

Q. Has the company discouraged the writing of annual dividend policies? A. So far as the discouraging by the paying of lower rate of commission is concerned, yes.

Q. Has that been an effective discouragement? A. In my office it has been a very thorough discouragement, sir.

Q. What? A. In my office it has been a very thorough discouragement.

Q. So in your office you have written very little annual dividend business? A. Very little.

Q. What do you mean by very little? What percentage of your business for the last ten years would you say has been annual dividend business, approximately, of course. A. Well, if I may approximate, sir, I would say that for the last ten years there has been over one per cent.

Q. Now, in 1891, it appears that the rate of commission has changed to range on the first year's premiums from thirty per cent. to seventy per cent., with six renewal commissions of ten per cent. upon the renewal premiums? A. Yes, sir.

Q. There were other provisions for thirty-five per cent. of the first year's premiums and four renewal commissions of five per cent. upon the renewal premiums to fifty-five per cent. of the first year's premium and six renewal commissions of five per cent. upon the renewal premiums and a further provision for twenty-five per cent. flat to sixty-five per cent. flat. Have I correctly stated it? A. That is correctly stated, sir, and those are for four different kinds of contracts.

Q. Now, what is meant by twenty-five per cent. to sixty-five per cent.? A. Well, Mr. Hughes, I don't remember what that was for. Those were for policies having annual dividends, I think.

*Testimony of Charles H. Raymond*

THE CHAIRMAN: We can't hear you, sir.

THE WITNESS: I beg your pardon. My voice is defective. They were for annual dividend policies. The twenty-five per cent. I know was. The sixty-five per cent, I don't know what that refers to.

Q. And most of the business that was done was done at the higher rate of compensation? A. It was.

Q. I find that in 1893, the rate of compensation was changed so as to run upon first-year premiums from thirty-five per cent. to eighty per cent. with one renewal of ten per cent. on the renewal premium and six renewal commissions of seven and a half per cent. on the renewal premiums with a further provision upon certain business of forty per cent. upon the first year's premiums and six renewal commissions of five per cent. of the renewal premiums and sixty per cent. of the first year's business and six renewal commissions of five per cent. on the renewal premium, with also a provision for compensation on certain business of forty-five per cent. to seventy per cent. flat. That was a distinct increase in the compensation of C. H. Raymond & Company, was it not? A. One moment, if you please, Mr. Hughes. In 1893? Will you permit me to consult with Mr. Bell?

Q. Certainly.

MR. BECK: Here is Mr. Bell at last. Do you object to Mr. Bell sitting there?

MR. HUGHES: Not at all.

MR. BECK: It will save a great deal of time.

THE WITNESS: Mr. Hughes, I have to apologize to you for making an error here.

*Testimony of Charles H. Raymond*

Q. You had better just correct it on the record. A. Shall I go back, sir, to 1888?

Q. Without stating details, won't you just state generally the error into which you have fallen in describing the business so that we can proceed to correct the record properly? A. The general error into which I was led by looking at the paper without a more definite heading is this, that while I described accurately that while the company paid to the general agency commissions of from forty-five to sixty-five per cent. of the first year's premiums and five years of ten percentage and ten ten percentage, the commission that was paid by the general agency for the business obtained were thirty on the first year's and five years of five.

Q. Pardon me. This paper you have here, Exhibit 255, in that first column, under the head of first year's commission and renewals, or rather the first two columns, states what? A. States what the company paid to the agency.

Q. What the company paid to C. H. Raymond & Company? A. C. H. Raymond, General Agents.

Q. Now, the next two columns state what? A. The next two columns state thirty and five.

Q. No, no. I don't want in detail but the nature or character of the items. A. States what is stated in the heading which escaped me, "Commissions to agents."

Q. That is what C. H. Raymond & Company paid to the agents who got the business? A. Quite so.

Q. In other words, C. H. Raymond & Company had the Metropolitan District which then meant the old City of New York. A. New York City, yes, sir, the old City of Staten Island and Long Island.

Q. Well, then, the change in the boundaries of the city did not make any change in the boundaries of Raymond & Com-

*Testimony of Charles H. Raymond*

pany's territory? They have always had the Island of Manhattan and Long Island and Staten Island? A. Yes, sir.

Q. And also, I suppose, what is now in the Borough of the Bronx up to the city limits? A. No, sir; we do not go there.

Q. Now, to go back and correct the record and have it correctly appear what your compensation was, I understand that in 1888, commissions to which C. H. Raymond & Company were entitled upon the business written in the Metropolitan agency was forty-five per cent., to sixty-five per cent. of the first year's premiums with a range of five renewal commissions of ten per cent. of the renewal premiums to ten renewal commissions of ten per cent. of the renewal premiums? A. Yes, sir.

Q. And that the same rate obtained for the years 1889 and 1890? A. Yes, sir.

Q. Did C. H. Raymond & Company provide moneys for the running of the office? A. Yes, sir; we paid for our office.

Q. Did you employ the sub-agents or solicitors who reported directly to C. H. Raymond & Company? A. Certainly.

Q. And you paid them upon the premiums which came in certain compensation? A. As stated there.

Q. Which in 1888 was thirty per cent with five renewals of five per cent on the renewal premiums to fifty per cent of the first year premiums; and ten renewal commissions of five per cent upon the renewal premiums? A. That is so.

Q. And that was modified in 1889 so that the compensation ranged from thirty-five per cent of the first year's premiums to six renewal commissions on the renewal premium to forty-five per cent of the first year's premium and ten renewal commissions of five per cent on the renewal premiums? A. That is right, sir.

Q. There was a further modification in 1890 which involved the flat rate to which reference has already been made. A. Yes, sir.

*Testimony of Charles H. Raymond*

Q. Now, Raymond & Company got the amounts we stated a moment ago from the Mutual Life Insurance Company, paid these amounts as compensation to the agents who obtained the business and paid the expenses of running their office and kept what was left for their profit? A. Yes, sir.

Q. And during these years to which I have just referred, 1888, 1889 and 1890, these being the years with which the statements begin, the net profits of C. H. Raymond & Company were divided between yourself and Mr. R. H. McCurdy. A. Yes, sir.

Q. And in what proportion? A. One-half.

Q. During those years one-half to each? A. Yes, sir.

Q. When you said a moment ago that you paid the same commissions over to the agents, you mean that you paid out of the moneys you got at the rate to which they were entitled, as already stated? A. At the rate stated in that column.

Q. Which, of course, as fully appears by the figures, was considerably less than C. H. Raymond & Company got? A. Had to be.

Q. Certainly, so you could pay your expenses and divide the profits. The figures show that. Now, I would like to know during these years, just what C. H. Raymond & Company got from the Mutual Life Insurance Company, what they paid to agents, what they paid for expenses, and what they had left to divide, and how they divided it. A. I will try and show you that, Mr. Hughes.

Q. I am shown a paper now, which starts with the year 1896. Have you no record of the earlier years? A. I have not here, Mr. Hughes.

Q. Those can readily be made up? A. Can readily be made up.

Q. Have you a statement of the operations of the firm from 1889 on, which will show what Mr. Robert H. McCurdy received from the firm of C. H. Raymond & Company? A. That is it, Mr. Hughes.

*Testimony of Charles H. Raymond*

Q. This paper that you now hand me, I understand, shows the amount which was credited to Mr. R. H. McCurdy by the firm of C. H. Raymond & Company for his interest in the first-year commissions which the firm had received, his interest in the renewal commissions after deducting the amount paid to agents for obtaining the business, that is his interest in the net commissions received by the firm and also certain other credits which went to his accounts on transactions of the firm, and then the debits that were made against his account of his share of the expenses of the firm, leaving the net amount which he was entitled to each year as a member of the firm? A. You have stated it correctly, sir.

Q. That statement just made is correct down to the time when he ceased to be a member of the firm in December, 1892?

A. Yes.

Q. And from that time on the same paper that you hand me shows the amount credited to him as his interest in renewals received by the firm net after payment to agents of whatever came to them on business previously written, his share of the credits and debits against him of his share of expenses, leaving the net amounts payable to him by virtue of his former interest in the business? A. By virtue of his former interest in the business.

Q. And that gradually decreased as the renewal commissions expired? A. Precisely.

Q. So that we have what he got as a member of the firm from 1889 to 1892 inclusive, and by virtue of his interest in renewals on business written during that period, the amount which he received from January, 1893, to December, 1894 inclusive? A. Yes.

MR. HUGHES: I offer that statement in evidence.

(Paper received in evidence and marked Exhibit 257.)

*Testimony of Charles H. Raymond*

Q. MR. HUGHES: The statement will be printed in full, but I will read simply the net amounts which were received by Mr. McCurdy after deducting his share of the expenses from the net profits of the firm of C. H. Raymond & Company during the years mentioned.

|           |             |
|-----------|-------------|
| 1889..... | \$40,748.11 |
| 1890..... | 61,903.12   |
| 1891..... | 55,001.76   |
| 1892..... | 63,484.36   |
| 1893..... | 61,635.05   |
| 1894..... | 50,371.39   |
| 1895..... | 52,077.78   |
| 1896..... | 46,261.85   |
| 1897..... | 41,389.47   |
| 1898..... | 30,750.48   |
| 1899..... | 17,646.94   |
| 1900..... | 7,523.99    |
| 1901..... | 1,258.19    |
| 1902..... | 288.13      |
| 1903..... | 213.14      |
| 1904..... | 235.14      |

Q. Now, it has been testified down to the end of 1892 Mr. McCurdy paid over to you one-half of the amounts which he received from his commissions upon foreign business. Do the amounts which he paid over to you in that way at all figure, that is, are they included in the amounts which he received from the firm of C. H. Raymond & Company? A. They are not included there, sir.

Q. So that during the years that he was a member of C. H. Raymond & Company, 1889 to 1892, he received the amounts which have been stated from C. H. Raymond & Com-

*Testimony of Charles H. Raymond*

pany and in addition he received and retained one-half of the amounts shown upon his statement of commissions upon foreign business? A. Whatever that may be.

Q. And after 1892 he received the amounts stated in the statement of his receipts from C. H. Raymond & Company and in addition he received and retained the whole amount stated in his statement of receipts upon foreign business?

A. As far as I know, yes.

Q. Now, in 1893, or thereabouts, Mr. Louis Thebaud became a member of your firm, did he not, on Mr. McCurdy's retirement? A. Yes.

Q. What interest in the firm did he receive? A. One-quarter interest.

Q. How long did he continue to have a quarter interest? A. If you will pardon me, sir, I will read from my notes.

Q. Certainly, read from anything which will enable you to state. A. January 1, 1893, I made a partnership agreement with Mr. Louis A. Thebaud to last until 1896, whereby he was to receive one-quarter interest in the business, and I was to receive a three-quarter interest. On the 1st of January, 1896, we made a continuation of the partnership whereby each partner was to receive one-half interest in the business for five years, and in 1901 the same arrangement was continued five years more until 1906. But on the 1st of March, 1902, the company terminated my appointment as a general agent, and appointed me its managing agent for the Metropolitan District, the appointment to terminate December 31, 1904, so that by mutual agreement the co-partnership with Mr. Thebaud terminated and a new co-partnership was entered into under the name of C. H. Raymond & Company, Managers, made for the same period and to terminate December 31, 1904, with my new appointment as managing agent. In this co-partnership our respective interests were to myself, one-



*Testimony of Charles H. Raymond*

third, and to Mr. Thebaud two-thirds, until February 28, 1903.

Q. When did that division begin—when did it cease to be one-quarter to Mr. Thebaud and three-quarters to you? A. I have stated, sir, on the 1st of January, 1896, we made a continuation of the partnership whereby each partner was to receive one-half interest in the business, so at that time Mr. Thebaud's interest was one-half.

Q. I see. And that equal division continued until 1903? A. Pardon me, if I refer to my notes. Whereby each partner was to receive one-half of the business for five years, and in 1901 the same arrangement, that is a one-half interest each, was continued to last five years more until 1906, but on the 1st of March, 1902, the company terminated my appointment as general agent, as I have already stated.

Q. Yes, and then the division of one-third to you and two-thirds to Mr. Thebaud began? A. And then we renewed our partnership with the respective interests to myself one-third and to Mr. Thebaud two-thirds until February, 1903. And from that date for myself one-fourth and Mr. Thebaud three-fourths until December 31st, 1904. On December 31st, 1903, however, the company cancelled my appointment as managing agent, which was to terminate December 31st, 1904, and made it to run until December 31st, 1905, and in consequence of this extension of my appointment by the company the co-partnership between Mr. Thebaud and myself was then continued under its then existing terms for one year longer, that is, one-quarter to myself and three-quarters to Mr. Thebaud.

Q. Until December 31, 1905? A. Yes.

Q. Now, who made these contracts with C. H. Raymond & Company giving them the commission to which testimony has been given? A. The contracts were made from year to year by the Mutual Life Insurance Company.

*Testimony of Charles H. Raymond*

Q. Acting through whom? A. Through Mr. Granniss, the vice-president, and afterwards by Dr. Gillette, the general manager.

Q. Do you know whether or not the matters came before any committee of the board? A. Of the rates of commission?

Q. Yes. A. I never inquired whether they did or not. I received my contract from the company precisely as all other agents did there.

Q. Have you a statement of the results from the business of C. H. Raymond & Company since Mr. Thebaud became a member of the firm? A. Yes. (Paper handed counsel.)

Q. The paper now handed me is a general statement beginning with the year 1896, which, I understand, embraces the results of the business of the firm to that period? A. That is right, sir.

MR. HUGHES: I offer that in evidence.

THE CHAIRMAN: From 1896 to 1904?

MR. HUGHES: From 1896 to 1904.

THE CHAIRMAN: It does not include the first three years?

MR. HUGHES: No, it does not include the first three years.

(Paper marked Exhibit 258.)

MR. HUGHES: This paper will appear in full in the record. It shows the first year's commissions, the first years paid to agents, the net amount of the first year's commissions, the renewal commissions, the renewals paid to agents, the expenses and the net

*Testimony of Charles H. Raymond*

renewals. I do not see that it contains a statement of the actual results to the firm.

(After a conference with Mr. Raymond's assistant, Mr. Bell, Mr. Hughes states:)

MR. HUGHES: I understand now that the amount stated in the column "Net first years" is the amount of the commissions of C. H. Raymond & Company after paying the proportion of the first year's commissions that the agents were entitled to receive. That the expenses of C. H. Raymond & Company were charged against the renewal commissions received and that the net renewals are the amounts of renewal commissions received by C. H. Raymond & Company after deducting the renewals paid to agents, and the expenses of the firm. That is right?

THE WITNESS: That is correct.

Q. And that the net profits after payment of commissions to agents and after payment of all expenses of the firm of C. H. Raymond & Company in these years is the aggregate of the amount stated as net first year's and net renewals? A. That is correct.

MR. HUGHES: Now, I will read upon the record these amounts of the profits of C. H. Raymond & Company in the years stated:

| 1896 Net first years | Net renewals |
|----------------------|--------------|
| \$78,164.40          | \$112,430.88 |
| 1897. 74,808.74      | 115,442.52   |
| 1898. 61,110.85      | 134,635.80   |
| 1899. 89,516.06      | 139,912.97   |

*Testimony of Charles H. Raymond*

|       |           |            |
|-------|-----------|------------|
| 1900. | 73,064.20 | 165,875.33 |
| 1901. | 42,552.90 | 161,884.66 |
| 1902. | 63,850.44 | 180,368.69 |
| 1903. | 69,203.62 | 169,293.76 |
| 1904. | 72,825.59 | 175,001.08 |

Q. Now, have you a statement of the amount of money which was received by Mr. Thebaud during his co-partnership with you?

A. Yes. (Handing paper.)

THE CHAIRMAN: Do we understand that the receipts for 1904 amounted to nearly \$250,000?

MR. HUGHES: We understand that the net receipts of the office, after paying all the agents who wrote business, their share of the first year's commissions and renewal commissions and after paying all the expenses of the office amounted to \$247,826.67.

Q. Does this statement show Mr. Thebaud's interest in the profits of the firm of C. H. Raymond & Company after deducting the amounts paid to agents by the firm and after deducting Mr. Thebaud's share of the expenses of the firm, that is his net income as a partner from the firm? A. Yes, that is what it shows.

MR. HUGHES: I offer it in evidence.

(Paper marked Exhibit 259 and read by Mr. Hughes.)

Q. In this paper there are stated first year and renewals. I take it that that means his net interest in the first year's commissions of the firm and his net interest in the renewal commissions of the firm after the deducting of expenses and in each case after deducting the commissions of agents? A. That is correct.

*Testimony of Charles H. Raymond*

Q. There was no profit, I understand, in 1894? A. No.

Q. And these amounts, as I understand it, were actually paid to Mr. Thebaud? A. As his share, yes, sir.

Q. Now, I should like to be informed what contracts C. H. Raymond & Company have with sub-issue agents, that is, with the men who get the business, what terms are given to them?

A. We pay at the present time eighty per cent. for the highest rate of commissions, graded down to fifty and thirty-five.

Q. I was going along a while ago with this statement, Exhibit 255, of the commissions, rate of commissions paid your firm and the rate of commissions paid by your firm to agents. I will continue with that. I think we left this matter at the point where Mr. Thebaud became a member of the firm in 1893. Am I right in understanding that at that time there was an increase in the rate of commissions paid the firm?

A. I think that was the general rate of increase made by the company to its general agents.

Q. And C. H. Raymond & Company shared in the general increase in the rate of commission? A. We were paid the same rate.

Q. Now, it appears in 1893 the rate of commissions on first year's business paid by the Mutual Life Insurance Company to C. H. Raymond & Company ranged from thirty-five to eighty per cent., also included one renewal commission, or a range of renewal commissions from one renewal commission of ten per cent. to six renewal commissions of seven and one-half per cent. Have you that contract here? A. Yes, sir.

Q. Is this the contract (handing paper)? A. Yes.

Q. It is in the form of a letter which you now produce? A. Yes.

MR. HUGHES: I offer it in evidence.

(Paper marked Exhibit 260.)

*Testimony of Charles H. Raymond*

MR. HUGHES: I will read this upon the record so that you may have it back. (Exhibit read.)

Q. What is meant by the "Confidential Circular of November 1, 1892," which it is said the company had decided to withdraw? A. I don't know what it was, sir. Whatever it was it was withdrawn. It was something in regard to rates of commission evidently.

THE CHAIRMAN: Repeat that answer.

THE WITNESS: It was something in regard to rates of commission, but I don't remember what the circular was, and I don't think I have a copy of it. It was probably returned to the company's office.

Q. What is meant by the phrase, "The following special rates of compensation" in the first paragraph of the letter? In what sense were the rates special? A. It was stated that it was a semi-centennial year of the company, and his desire was to make a semi-centennial business.

Q. Were there any other agents of the company who were paid as well as the firm of C. H. Raymond & Company for that semi-centennial year? A. So far as I know they were all paid in the same way.

Q. Well, to put it in another way, do you know of any that were paid in the same way? A. I do not know; I never inquired the rates paid to other agents, Mr. Hughes.

Q. I notice that the first class of policies mentioned it twenty-year distribution policies, all forms except single premium. What is a twenty-year distribution policy? A. A twenty-year distribution policy is a policy upon which at the request of the applicant for the insurance the surplus

*Testimony of Charles H. Raymond*

**accumulated** and credited to the policy is withheld by the company, accumulated at its rate of compound interest until the termination of the twenty years spoken of in the contract. Then that amount of money so accumulated is payable to the policyholder either in cash or in paid-up insurance if he so elects.

Q. Does it include the twenty-year life policies or is it a limited to twenty-year endowments? A. It includes twenty-year life policies.

Q. It includes all policies where dividends are deferred until the expiration of a period of twenty years? A. It includes any policy applied for to be entered into that class and when so applied for and so issued if the policy is a whole-life policy it has a twenty-year deferred dividend clause in it which is to be settled at the end of twenty years, as I have explained.

Q. Yes. Similarly the fifteen-year distribution policy is a policy where the dividends are deferred for a period of fifteen years? A. Quite so.

Q. What is meant by a single premium? It says all forms except a single premium and special rates are provided for a single premium policy? A. Where the entire premium of the policy is paid at the time of the issue of the policy, one sum.

Q. Is there much of that business done? A. Not a very great deal.

Q. What percentage of your business on the average would be special premium business? A. A very small sum.

Q. Less than one per cent.? A. Oh, yes, decidedly so.

Q. Decidedly less than one per cent.? A. Yes, decidedly.

Q. Then there is another class of annual distribution and forms of policy not provided for. That class would not exceed one per cent. of your business, as I think you have already

*Testimony of Charles H. Raymond*

testified to? A. I think in those years, sir, it didn't exceed anything in my agency; we didn't take them.

Q. So that the business which your firm did was practically all under these classes of twenty-year, fifteen-year, ten-year and five-year distribution policies? A. Practically.

Q. And of those classes the great bulk of your business was twenty-year distribution policies, was it not? A. I fancy it was, yes, sir.

Q. What proportion would you say, roughly? A. I would say 70 per cent., sir.

Q. 70 per cent. And how much of the business was fifteen-year distribution policies? A. Not over 5 per cent.

Q. And how much 10 year distribution policies? A. A little more; 6 or 7 per cent.

Q. So that for about 70 per cent of the business obtained through C. H. Raymond & Company, the Mutual Life Insurance Company paid 80 per cent of the first year's premiums, 10 per cent of the second year's premiums and  $7\frac{1}{2}$  per cent of the renewal premiums for six years thereafter? A. Those are the rates.

Q. Now, that continued, as I understand it, for some three years? A. Yes.

Q. And if in juxtaposition to this contract that you have produced of your own you can give me the contracts that you had at that time with your sub-agents I should be very glad to have it. A. We can give you those.

Q. Have you got them here? A. We haven't them here. Don't it state on the——

Q. It states here in the paper Exhibit 255 that during the year 1893 the compensation paid by you to sub-agents ranged from 40 per cent of the first year's premium and six renewals of five per cent of the renewal premiums to 60 per cent of the first year's premiums and six renewal commissions at five per cent of the



*Testimony of Charles H. Raymond*

renewal premium with also a provision for a flat commission of 45 to 70 per cent on the premium? A. Yes, sir.

Q. Now, I suppose that flat commission was about as negligible in the case of the sub-agent as it was in your own case, it related to the same kind of business, didn't it? A. No, sir.

Q. It didn't? A. No, sir; there was another class of agents.

Q. Now, just explain what the flat rate paid to sub-agents applied to? A. The flat rate was the rate that was paid for transient business over the counter.

Q. For what? A. For transient business, for business that was not received from our regularly appointed agents.

Q. Not transient with reference to its duration? A. No, sir, but with reference to the agent who brought it.

Q. Received over the counter, and you paid him a brokerage of 45 per cent to 70 per cent? A. Precisely.

Q. According to the nature of the business? A. Precisely.

Q. If he brought you a twenty year deferred dividend application, or an application for that kind of a policy, in which you would get 80 per cent commission on the first year with certain renewal commissions as already stated, you would give that man who brought it in, not being your regular agent, a commission of 70 per cent on the first year's premium flat? A. If he had no contract with us, yes.

Q. And that would be the end of his compensation? A. Mr. Bell tells me that there were some agents who preferred to be paid in that way.

Q. You tell me that if an agent preferred to be paid in that way you would let him be paid in that way? A. We did.

Q. And the agents with whom you had contracts ordinarily were paid at the rate as stated in the plan read, and the rate of 40 per cent. of the first-year premium, and six renewal commissions of five per cent. of the renewal premiums to 60 per cent. of the first year's premium and six years renewal com-

*Testimony of Charles H. Raymond*

missions and five per cent. of the renewal premiums? A. Yes, sir.

Q. That 65 per cent. was in the case of the twenty-year distribution policy, I suppose? A. It was.

Q. That was the highest that you paid any sub-agent? A. With renewals.

Q. With renewals? A. Yes.

Q. That is with the six renewals of 5 per cent.? A. Yes, sir.

Q. And the bulk of the business brought in by the sub-agents, of course, was business on which they got that 60 per cent., as you have explained that 70 per cent. of your business was of that class? A. Yes, sir.

Q. The 40 per cent., the minimum rate, I suppose, applied to ten-year and five-year distribution policies? A. Yes, sir.

Q. Now, in 1894 the commissions of C. H. Raymond & Company were further increased, were they not—the rate of commissions? A. 40 and 85.

Q. Have you the contract for 1894? A. Yes, sir.

Q. This contract is dated April 30, 1893, and I will read the parts which state precisely the terms where they vary from the contract already introduced of the preceding year:

Classes A, B and C, twenty-year distribution policies, all forms excepting single premiums, 85 per cent.—

Q. At this moment my attention is called to the fact that you were in error in stating that at 85 per cent. that it should be 65 per cent., according to the letter. A. It says so here, 85. It wasn't 85, sir.

Q. You know it is 65 now, so that we can take it? A. 65 by the contract, yes, sir.

Q. Well, will you correct this paper so that we can have it right.

*Testimony of Charles H. Raymond*

MR. HUGHES: Now, I will read the parts of the letter which states the business as follows:

Classes A, B and C, twenty-year distribution policies, all forms except single premiums, 65 per cent., first year, 25 per cent., second year, 10 per cent. third year and  $7\frac{1}{2}$  per cent. for five years thereafter.

Fifteen-year distribution policies, all forms excepting single premiums, 60 per cent., first year, 25 per cent. second year, 10 per cent. third year and  $7\frac{1}{2}$  per cent for five years thereafter.

Ten-year distribution policies, all forms except single premium, 55 per cent, first year, 25 per cent. second year, 10 per cent. third year and  $7\frac{1}{2}$  per cent. for five years thereafter.

Five-year distribution policies, all forms except single premiums, 40 per cent., first year, and  $7\frac{1}{2}$  per cent. renewals for six years thereafter.

All others appear to be the same with the exception of the provisions for bonuses.

The provisions for bonuses are as follows:

First quota, \$3,000,000.

After this amount in all classes of business, except D and E, that is established, you will be entitled to a bonus of \$1.25 per \$1,000 established in excess thereof.

Second quota, \$6,000,000.

After this amount shall have been established, you will be entitled to charge \$1.25 additional per \$1,000 of all business, except D and E, established in excess of said second quota.

Q. What is the average premium on twenty-year distribution policies? 9. \$40.

*Testimony of Charles H. Raymond*

Q. And five per cent of \$40 is how much? A. \$2. This is  $3\frac{1}{4}$ , that highest bonus there.

Q. Now, during this period of 1894 the commissions paid to sub-agents upon the twenty-year distribution policies remained the same as they were in 1893, did they not? A. No, they did not.

Q. You show me now that the commission paid on twenty-year distribution policies, constituting the bulk of your business, that is, the commission paid to your sub-agents, was raised to 70 per cent. in the first-year premiums and six renewal commissions of five per cent. of the renewal premiums? A. That is right.

Q. And that is the year Mr. Thebaud's statement showed no profits on first year's business? A. There were none.

Q. So that that was changed the next year. Now, have you got the contract for 1895? A. Yes, sir.

Q. Now, in 1895 by the contract which you now show me of December 22d, the contract for 1893, or the terms of the contract for 1893, were reinstated? A. Yes, sir.

Q. It was a mere reversion to the former rate of commission? A. Yes, sir.

MR. HUGHES: And I find appended to this a letter as follows:

Office of the General Agent,

C. H. Raymond, General Agent,

Dear Sir:

You will be allowed for the balance of the year 10 per cent. additional on the premiums of Class A, B and C, with the exception of five-year distribution policies.

(Signed) John C. Elliott, S. D. A.

*Testimony of Charles H. Raymond*

Q. That is for what? A. That was for the rest of the year, sir.

Q. Well, you mean for the next twenty-six days? A. Yes, sir. Well, I think for the whole month.

Q. Well, why should you have got an extra 10 per cent. compensation for December? A. We had to pay a larger amount of commissions to get the business, sir, because just at that time of the year the struggle was greatest to fill up the quotas of the several agencies.

Q. Well, was that done in other years? A. Not usually.

Q. Do you remember why it was done that year? A. Because the company wanted a larger amount of business, I fancy, sir.

Q. Did you give that additional payment to the agents? A. Yes; we paid it to the agents.

Q. Now, in 1896 there was a further modification. This contract which you now produce for 1896 is on a printed form, which appears to be a form of agency contract. Is that so? A. Yes, sir; that is so; the company's form.

Q. Do you understand that this is the regular company's form of contract for general agents? A. Yes, sir.

Q. And has that been in use from 1896 on, that general form? A. I think that form, or one like it, has been used.

Q. With substantially the same terms? A. I am not sure; no, they have changed the terms from year to year as they have seen fit.

MR. HUGHES: The terms as shown by this contract, the printed form, are as follows, the date being November 9, 1895, and the compensation relating to the year 1896:

For all life, joint life and endowment policies calling for ten or more premiums first-year twenty-year distribution policies

*Testimony of Charles H. Raymond*

70 per cent., fifteen-year distribution policies 60 per cent., ten-year distribution policies 50 per cent., five-year distribution policies 40 per cent. For renewals of ten per cent. and three of five per cent.

Annual distribution in due form 35 flat, no renewals.

Single premium policies:

Life policies 10 per cent., endowment  $7\frac{1}{2}$  per cent.

Endowments of all kinds 5 per cent.

Mortuary allotments and contingent addition  $7\frac{1}{2}$  per cent.

Allotments and bonuses I read as follows under that heading:

The allotment for the year of established business will be \$11,500,000 divided into four quarters as follows:

First quarter beginning with March account, \$1,725,000; second quarter, ending with June account, \$2,875,000; third quarter, ending with September account, \$2,875,000; fourth quarter, ending with December account, \$4,025.

And the amount of insurance named in any quarter, all established within the accounts of such quarter, you will be allowed to charge \$3.50 a thousand of insurance upon the annual business furnished therein, and on the remainder when the second semi-annual or fourth quarterly premiums have been paid business will be regarded as established in any quarter with the initial premium as to any such quarter.

Should you exceed the amount of business named above within any such quarter the excess may apply to the quarter following.

Appended to this are several written modifications which I will read in the order of their dates:

*Testimony of Charles H. Raymond*

Office of the General Manager, Charles H. Raymond, General Agent,

Dear Sir:

You will be allowed 10 per cent. overriding commission on twenty and fifteen year distribution and five per cent. overriding commission on ten-year distribution for the year 1896.

John C. Elliott, S. D. A.

December 30, 1895.

Q. What is meant by an overriding commission? A. A commission in excess of the rate stated in the letter of instructions.

MR. HUGHES: And under date of December 10th, as follows:

"Confidential.

"Charles H. Raymond, General Agent:

"The scale of renewal commissions under your contract, dated November 9, 1895, is hereby amended to read five renewals of 10 per cent. and one of 5 per cent.

"John C. Elliott, S. D. A.

"New York, December 10, 1895."

That was endorsed or marked across, or marked in red ink, "Amended to read six renewals of 10 per cent., W. R. G."

Q. When was that last amendment made? A. There is no date, sir; I can't tell when it was made.

Q. It applied to the year 1896? A. Yes; it was applied to the year 1896.

*Testimony of Charles H. Raymond*

Q. A further memorandum annexed is as follows:

"Charles H. Raymond, General Agent:

The bonus offer under your 1896 contract is hereby changed so as to read:

First six months ending with June account, \$4,000,000; second six months, ending with December account, \$6,000,000. Should the amount of insurance named in either six months be established within the account of said six months you will be allowed to charge \$3.50 a thousand of insurance upon all annual business furnished therein and on the remainder when the second semi-annual or fourth quarterly premiums have been paid. New York, December 17, 1895.

John C. Elliott, S. D. A."

That has marked across it in red ink, "Approved for 1897, October 28, 1896, W. R. G."

"Approved for 1898 December 27, 1897, W. R. G."

A further memorandum annexed to the first contract mentioned of November 9, 1895, is as follows, dated New York, June 14, 1896:

"Charles H. Raymond, Metropolitan General Agent, New York City,

Sir:

The contract for the scale of compensation for your general agency for the year 1896, dated November, 1895, together with the subsequent changes and amendments dated respectively December 3 and 10, 1895, is hereby extended to include all business done within the three years ending December 31,



*Testimony of Charles H. Raymond*

1898. All other requirements and conditions remain in force excepting that the allotments, per established business, shall be at the discretion of the company."

Across this is written in red ink, "Approved for the year 1900, W. R. G."

And also—and I should have read the other first—"Walter R. Gillette, General Manager, July 1, 1896. Extended for 1899, W. R. G."

Q. Well, that contract, with those modifications, the firm of C. H. Raymond & Company worked under down through 1893, did they not, those terms? A. Yes, that was so.

Q. And your compensation to sub-agents remained in 1895 to 1899 inclusive the same as it was in 1894, and was increased in 1900 so as to range from 65 per cent. of the first year's commissions and six renewals of five per cent. of the renewal premiums to 75 per cent. of the first year's commissions and six renewals of five per cent. of the renewal premiums, with an alternative of 65 per cent. of the first year's commissions and one renewal of 10 per cent. to 75 per cent. of the first year's premiums and one renewal of 10 per cent.? A. Yes, sir.

Q. And those payments for commissions to sub-agents remained the same to 1903? A. Yes, sir.

Q. Now, you have had another contract for the last two years? A. December 31, 1903, yes, sir.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 261.)

MR. HUGHES: And I will read it on the record. (Exhibit read.)

*Testimony of Charles H. Raymond*

Q. Reference has been made to the expenses of your agency which were deducted or charged against the renewal commissions received by your firm or the firm. Did C. H. Raymond & Company meet out of its commissions all the expense of its office? A. Yes, all its office expenses.

Q. Do you refer now to its main office, or to all the offices within its jurisdiction, that is, subject to its supervision? A. Well, there has been a change in the way of managing those offices. Up to this last contract the company in some cases paid the rent; in others they paid part of the rent, and the general agency paid the other part.

Q. Under the system that was in force prior to December, 1903, the entire Metropolitan District being within your control, all the branch offices and all the sub-agency offices within that district were manned and equipped by you, were they not? A. Yes, sir.

Q. Did you employ all the persons that were employed to write insurance for the Mutual Life Insurance Company within the City of New York? A. Yes, sir.

Q. And did you employ all the clerks and persons who were engaged in the clerical work incident to the business of your main office and the branch offices? A. The main office without exception. Of the branch offices there may be—also branch offices, yes, sir.

Q. Now, did the firm of C. H. Raymond & Company pay all the expenses prior to December, 1903, of all the branch offices within the Metropolitan District? A. No, sir, they didn't pay all the rent.

Q. Who paid the rent other than what you paid, the Company? A. Other than what we paid the Mutual Life paid always.

Q. What amount did the Mutual Life pay in 1903, for rents of offices which were used as branch offices by the firm of

*Testimony of Charles H. Raymond*

C. H. Raymond & Company? Now, I am told by Mr. Bell that when Mr. Thebaud became a member of the firm of C. H. Raymond & Company in 1903 there were outstanding certain leases of certain offices used by the company within the Metropolitan District, the rents accruing upon which were paid by the company, and not by C. H. Raymond or C. H. Raymond & Company, that those were rents of \$600, \$2,000 and \$1,500; that after Mr. Thebaud became a member of the firm of C. H. Raymond & Company, the business of the company requiring additional offices and additional expenses by way of rental, all those expenses were met by C. H. Raymond & Company? A. That was the case.

Q. And the Mutual Life paid no more money than it had previously been called upon to pay under these three leases that have been mentioned now. Is that correct? A. That is the fact.

Q. So that down to December, 1903, so far as the item of rent is concerned, it was included in the expenses—— A. Yes, sir.

Q. That you have not furnished me here, which were deducted from the renewal commissions of C. H. Raymond & Company, leaving the profits that have been stated? A. Yes, sir.

Q. Now, is that also true of the other expenses incident to the branch offices, and to the main office, clerk hire, book-keepers, cashiers and various persons? A. The company made no allowance for anything.

Q. You get nothing from the company? A. No, sir.

Q. You paid it yourself and had plenty of money to pay it with and realize the profit that has been mentioned.

(Not answered.)

Q. Now, then at the end of 1903, or at the time this contract is made under date of December 1, 1903, it seems some new

*Testimony of Charles H. Raymond*

arrangement was made as to these matters? A. Mr. Hughes, the company assumed to take my contract out of my hands and make a new one for me.

Q. It wasn't at your instance? A. It was not, sir.

Q. You were well satisfied with the situation as it existed? A. I was.

Q. Who brought up the matter of changing the contract? A. It came through the official channels of the company.

Q. Well, what were their names? A. The Department of Domestic Agents.

Q. Who is at the head of that? A. Well, it came really through the head of the department, the general manager, Mr. McCurdy.

Q. Through Mr. McCurdy? A. Yes.

Q. And he signified to you that the existing contract should be ended? A. Yes, sir.

Q. And a new contract made? A. Yes.

Q. Now, will you state practically what the effect of these changes are, translating the formal provisions of the contract into a popular yet accurate statement? A. The effect of the changes were to take from me that contract which you have read before, which was an extended contract, and reduce the time of my service, and naturally of the contract, that I worked under, to take the charge of the sub-agencies out of my control so far as the payment of their expenses were concerned, and to dictate who the sub-agents should be, the extent and number of sub-agents and the extent and number of officers, the number of men in them, and at the same time made me responsible for the work that they were doing. But the company insisted upon doing these things, and they offered me a sum of money to a limited extent which you have read there, of which a certain portion was consumed by

*Testimony of Charles H. Raymond*

my office, and accounts made to the company for all those expenses.

Q. In other words, they allowed you, that is, the firm of C. H. Raymond & Company a certain amount of money to cover rents and that was charged in the account? A. Cover the rents and expenses of the offices.

Q. Well, the first item was apparently to cover rents to be charged in monthly instalments and then in addition you were allowed monthly a sum up to 96 per cent. of all new premiums? A. That was to cover all our expenses.

Q. That was to cover all your expenses. That was in the nature of an advance, wasn't it? A. Oh, no.

Q. What was it? A. Oh, no.

Q. Well, what is it? A. It was an advance we can draw on monthly as we expended the money.

Q. I meant it was something you could draw on and use and ultimately would be charged against the amount that would be payable to you as commissions.

(Not answered.)

Q. Now, as this is explained to me by Mr. Bell, it comes to this, that after or beginning January 1, 1904, C. H. Raymond & Company were to get a total out of first year's commissions, that is, out of new business, of 96 per cent. of the premiums. A. Up to a certain amount.

Q. Up to the first seventeen millions of insurance? A. Precisely.

Q. So that of the first seventeen million dollars of insurance obtained through C. H. Raymond & Company in the City of New York, C. H. Raymond & Company were entitled to keep 96 per cent. of the premiums? A. No, sir.

Q. Well, I do not mean keep it in the sense that they did not have to pay expenses to sub-agents, but I mean keep it as far as the Mutual Life Insurance Company was concerned?

*Testimony of Charles H. Raymond*

A. Well, we were entitled to keep them provided we paid certain expenses which the Mutual Life Insurance Company required us to pay.

Q. But that in lieu of other commissions stated on first year's business was the compensation of C. H. Raymond & Company 96 per cent. of the first year's premium? A. We will call it so.

Q. Now, there is a paragraph providing that \$23,000 will be allowed to cover rents. That was an amount which they would advance, but do I understand that had to be included in the total of 96 per cent. of the first year's business? A. That was included in the 96 per cent.

Q. So it was not 96 per cent. of the first year's premiums plus \$23,000, but 96 per cent. in all? A. Minus, if you will.

Q. I am speaking of your relations with the Mutual Life Insurance Company. A. We had to pay the \$23,000 out of the 96 per cent.

Q. Then after the first seventeen millions of new insurance C. H. Raymond & Company were entitled from the Mutual Life Insurance Company to 93 per cent. on the premiums paid on additional insurance, instead of 96 per cent.? A. Precisely.

Q. It is further provided that with reference to renewal premiums on the first seventeen million dollars of business written during 1904, C. H. Raymond & Company were to have six per cent. of the renewal premiums for six years? A. Yes, sir; that was a reduction from the old commissions.

Q. That was a reduction to six per cent. for six years from ten per cent. for six years? A. As so stated; yes, sir.

Q. Then, with reference to the amounts in excess of seventeen millions of business beginning with 1904, the renewal commissions payable to C. H. Raymond & Company were to be six renewals of three per cent. each? A. That is right.

*Testimony of Charles H. Raymond*

Q. Now, it appears that although this minimum of seventeen million dollars is mentioned upon which all the premiums resulting from which C. H. Raymond were to have 96 per cent., the company guaranteed that there would be seventeen millions? A. That was because they had taken from me a good contract with an extended term of commissions of a larger rate.

Q. Well, whatever the reason for it may have been, that is what they did. A. You are stating the facts, yes.

Q. Yes. They guaranteed that you would have seventeen million dollars? A. Yes, they did.

Q. And they were to pay you on the basis of seventeen millions? A. They were to do so.

Q. So, if you in 1904, wrote ten millions of business you would get 96 per cent. on the premiums which would have been payable had you written seventeen millions? A. That is what the contract says would have been done, if I had only written ten millions, not on the first year's business but on the renewals.

Q. That is not correct, what has just been stated. You were in error in answering my last question affirmatively. This guarantee, I am now informed, relates only to renewals. A. You read it so in the contract.

Q. I will re-read it. I think you are right. The company guarantees to you the establishment of at least seventeen million dollars of new insurance on business written within the year 1904, that is, that the company agrees to reimburse you for any loss that may be sustained by you through the non-establishment of the said amount of seventeen million dollars of new insurance within the year 1904, and to pay to you six renewal commissions of six per cent on the premiums, equivalent to the deficiency based on the same ratio of lapses as the new business for 1904 may show. Well, I suppose if you had written ten million dollars in-

*Testimony of Charles H. Raymond*

stead of seventeen millions, there would have been a decided loss.

A. Yes.

Q. How was it in practice, did you actually write more than seventeen millions? A. Yes, we did.

Q. So the question did not arise? A. We did not mean to have it arise.

Q. But your intention, or the intention of those who gave you the contract, was that that clause, whatever may be the technical interpretation of it, was to apply to renewals only. A. That was my interpretation of it.

Q. This contract, as it states, applied only to new business commencing January 1, 1904, and the renewal premiums of business renewed after that date, and your own contract governed all receipts prior to that time—I do not mean receipts prior to that time, but receipts from business written prior to that time. A. All receipts from business written prior to that time as provided.

Q. The contract says in consideration of an expenditure by the company during the year 1904, through your agency of an amount within the discretion of the company, not to exceed \$150,000, to be disbursed as may be required in the establishment of new branch offices within your district, or profits that may be earned by you from bonuses on the new premiums on new business paid in excess of the first seventeen million dollars of business above guaranteed, are to be returned to the company. During the year 1904 did you receive in excess of the amounts to which your firm was entitled under this contract \$150,000 to be disbursed in the establishment of new offices? A. We received \$127,000.

Q. That is in excess of the amounts to which you were entitled under your contract by way of commissions? A. Yes, that money was expended for the company.

Q. It was received and expended? A. Received and expended. The amount was \$127,712.77.

Q. I am informed by Mr. Beck that that was done with the



*Testimony of Charles H. Raymond*

object of bringing about a change of the system of the company from a general agency to a salaried basis. A. That was the intention, sir.

Q. Have you received notice of the termination of the contract?

A. I have. I expected it from the time the contract was made.

Q. Of course, all of these contracts, though, in your personal name, were at once turned over to the firm of C. H. Raymond & Company, so that they were contracts really of the firm. A. Yes. That contract states the name of the firm.

Q. Yes, as of what time is the contract to end under the notice that you have received? A. On the 31st day of December, 1905.

Q. Now, I notice that the first year's commissions in total received by C. H. Raymond & Company amounted to \$818,879.23, and that the net first year's commissions of C. H. Raymond & Company for that year were \$42,552.90, but that in 1904, the total first year's commissions of C. H. Raymond & Company were \$698,969.93, but the net amount of the first year's commissions of C. H. Raymond & Company amounted \$72,825.59. It would appear, therefore, that while the new business fell off from 1901 to 1904, so as to reduce the first year's commissions from the firm about \$120,000, the net commissions of C. H. Raymond & Company rose some \$30,000 from \$42,000 to \$72,000. What is the explanation of that?

A. 1901 as compared with 1904?

Q. Yes. Less business, more profit. A. We paid more for the new business.

Q. You paid more, but this is what you got net. A. Yes, but—

Q. This is not what you paid but what you got net. You got \$42,000 out of first year's commissions in 1901, and \$72,000 out of first year's commissions in 1904, although the commissions in 1901, in the aggregate first year's commis-

*Testimony of Charles H. Raymond*

sions, were \$120,000 more than they were in 1904. That would look as though there had been a very substantial increase in the rate of compensation.

MR. BECK: There were special amounts paid to agents in 1901.

MR. HUGHES: It is not what was paid agents, but what was paid to Raymond & Company.

MR. BECK: That would bring down the net.

Q. As Mr. Bell explained, the explanation is due to the fact that the agents had to be paid less in 1904 than they were paid in 1901. A. They had to be paid more in 1901 than they were paid in 1904.

Q. Well, that is the same thing. A. It is just the other way about.

Q. Well, the point is, perhaps I stated it differently from what I intended to—what I meant to say was the agents were paid more in 1901 than they were paid in 1904. A. Because the proportionate payment was larger.

Q. Why was that? A. It is on the system by which, if you want to drive a steamship sixteen knots an hour you use a certain quantity of coal, but if you want it to go twenty knots an hour you have to use pretty near twice as much coal.

Q. Did not you want to do as well in 1904 as in 1901? A. I don't think we were driven by the company to that extent. Our limit was seventeen millions and we did twenty millions in 1901, and we were not called upon—we did the business—

Q. Well, it is more profitable evidently with Raymond &

*Testimony of Charles H. Raymond*

Company, as with some steamships, to go at less speed? A. Unquestionably so, and so with every general agent.

Q. So, if you are pushed you spend more money? A. When they put the whip on us we spend more money to get the business.

Q. Well, Mr. Beck suggests that it may be due to hard times. I suppose he means hard times for the agents.

MR. BECK: In 1901 they may have had to pay more money to get the business.

Q. Well, it would not be fair to assume that the rate of income of C. H. Raymond & Company had been improved or bettered during that period, would it?

MR. BECK: It is simply the question of amount paid to the agent.

THE WITNESS: If they had called upon us for three millions of dollars of extra business we would have had to put our money in and get it. We always tried to get what the company demanded in the way of business. If they served notice that they wanted more business, we did our best to get it. I do not approve of it. I do not think it is a good plan to drive the business so hard.

Q. Did it occur to you at any time when these matters were brought up with the company, to call attention to the fact that the earnings of the firm had increased to such an extent that they could stand a reduction of commissions? A. I never asked them to reduce my commissions, certainly not when they were cutting me down of their own volition, as

*Testimony of Charles H. Raymond*

they did at the end of 1903, when they cut down the contracts and cut down the commissions.

Q. For how long a term had you a contract at the end of 1903, only one year, was it not? A. Yes.

Q. Had not you had a contract year by year renewed each year? A. Yes, and that is the reason I did not get more business. If they had given me a three-year or five-year contract I could have got more business each year.

Q. In what way were you cut down? A. Because they interrupted my contracts. If you will read the contract—

Q. You had a contract for 1904 at the time this contract was made, the new contract in 1903. That is what you mean by having it cut off? A. Yes, they took that away from me as I said before.

Q. Suppose a man goes into the Mutual Life Insurance Company's main office, and without the intervention of the agent, says he wants a fifty-thousand dollar policy. Who gets the commission on that policy? A. Nobody.

Q. Do they take such business? A. They do.

Q. Has it ever been the practice to refer applicants for insurers to C. H. Raymond & Company? A. Never, except when they have written letters asking particular questions about their policies.

Q. So that the only business upon which C. H. Raymond & Company have received commissions, is business which originates in their main office or branch offices under their supervision, or with agents who bring it to them? A. That is precisely it. We have had a competitor in the Mutual Life Insurance Company itself, who employed a man to walk its floors to seize men who came in there and get them to insure their lives, without going through any agency, and saving the commission. I do not think it was fair.

Q. What were the reasons for increasing Mr. Thebaud's share

*Testimony of Charles H. Raymond*

in this partnership so far as you know? A. I know all about the reasons. They were my own.

Q. State them. A. My health failed so I was unable to attend to the business. I was obliged to be away from the office for long periods, during several years, and I was finally unable to give my attention to the hard work of the office. I was prepared to retire from the business and wished to resign, but my name was said to be a good trade mark, and I was known to all the agents of the city, and so I made a new arrangement by which I was gradually let out as it were, of responsibility of working for the firm. I was still responsible to the company for whatever was done there in the agency.

Q. Was it at the suggestion of Mr. Richard A. McCurdy, or Robert H. McCurdy, that Mr. Thebaud's interest was increased? A. It was not. It was at my own, sir.

MR. HUGHES: If you will give me the figures for the omitted years—there were three years in one case and three years in another case, that will be all.

MR. BECK: Yes.

THE CHAIRMAN: The Committee will now take the usual adjournment until ten thirty o'clock to-morrow morning.



ALDERMANIC CHAMBER,

CITY HALL, NEW YORK CITY.

October 6, 1905.

Met pursuant to adjournment.

Senator Armstrong in the Chair.

CORNELIUS C. WHITE, recalled, testified as follows:

MR. HUGHES: Mr. White, who was on the stand yesterday, desires to make a correction.

BY MR. HUGHES:

Q. Mr. White, I understand you wish to correct your statement of yesterday? A. I wish to reconcile the statement of the president and the testimony I gave yesterday.

Q. State whatever you wish to say. A. Your questions yesterday were as to whether that \$75,000 tax item had been transferred at any time to legal expenses. I said it had not. It has not. Then you asked if it was put in the real estate amount of \$235,000. I said it had not, which is true. But in the testimony that President McCall gave he included, as I have since learned, that \$75,000 with the item that had been charged to law expenses—with the total of items charged to law expenses. I have a statement, Mr. Hughes, if you wish

*Testimony of Robert H. McCurdy*

to refer to it, showing just how that \$75,000 affected the figures that were given by Mr. McCall.

Q. This is, then, a statement of the payments to Judge Hamilton during 1904, which aggregated the total of \$141,077.42, and included the \$75,000 to which you refer. A. The \$75,000 taxes, yes, the balance being charged to law expense account, the difference between the \$75,000 and the total.

MR. HUGHES: I offer that in evidence.

(Marked Exhibit 262 and will be found in the volume of exhibits.)

Q. So you desire to have it appear that the \$476,000 which Judge Hamilton had received during the years referred to by President McCall included the \$75,000 which originally he received on account of States' Taxes and retained for other purposes? A. Yes, that is right.

Q. And the \$235,000 is independent of the \$476,000. A. Which do you mean, the \$235,000?

Q. The \$235,000, of which you spoke a moment ago. A. Yes.

Q. And which he received in 1904. A. Yes. No part of that is included in this \$235,000 or \$441,000.

MR. HUGHES: Now, Mr. McCurdy, if you will resume the stand.

ROBERT H. MCCURDY, recalled, testified as follows:

BY MR. HUGHES:

Q. Mr. McCurdy, are you able now to state what portion



*Testimony of Robert H. McCurdy*

of the renewal commissions which you received on foreign business after your connection with Mr. C. H. Raymond had terminated, you paid over to him, that is, between 1893 and 1898? A. I shall have that statement here, sir; it is being typewritten now as I left the office.

Q. When was the office of General Manager of your company created? A. I can't say accurately; it was about 1887, I should think.

Q. Who was the incumbent of that office before you became general manager? A. Dr. Walter R. Gillett.

Q. And what salary did he receive? A. I don't know, sir.

Q. How are the salaries paid to officers of your company fixed? A. They are fixed by the Finance Committee.

Q. Do the records of the Finance Committee show the salaries paid to the various officers? A. I can't say whether they do or not. They instruct the cashier—the cashier.

Q. They instruct the cashier by resolution? You are a member ex-officio of the Finance Committee? A. Yes.

Q. Does the Finance Committee fix salaries yearly? A. Any change they would.

Q. How recently was the salary of the President of the company fixed by the Finance Committee? A. I don't know, sir.

Q. Has it ever been fixed by the Finance Committee? A. I have only been a member of the Finance Committee since 1903, two years. During that time I don't know that it has.

Q. What is the salary of the President of the company? A. I don't know.

Q. You have never known? A. Never.

Q. Does anybody know beside the President himself? A. I can't say, sir.

Q. I notice by By-Law 11 of the Mutual Life Insurance Company that the President may suspend or remove any

*Testimony of Robert H. McCurdy*

General Manager or General Agent at pleasure. Does that receive the practical construction that all contracts with general agents are made by the President directly or indirectly, and on such terms as he may see fit to make? A. As a matter of fact, they are usually made by the general manager, the contracts with the general agents.

Q. So that since you have been general manager you have had supervision of these contracts? A. Yes.

Q. How many general agents has the Mutual Life? I speak now of persons standing in the same relation to the company that C. H. Raymond & Company sustain for the Metropolitan District? A. It has seven in the United States, two in Canada, one in Mexico. Abroad in the foreign agencies, at present, I believe that all the agents are on the so-called general agency system.

Q. Who are the seven general agents in the United States? A. In Nebraska and Iowa the Flemings, four brothers; in certain northern counties of New York State, Lewis; New Jersey, Mr. George B. Raymond; New York City and Long Island, Charles H. Raymond; Louisiana, Mr. Post; Arkansas, Mr. Remmer; Texas, Chamberlain and Gillett.

Q. How are the other portions of the United States handled by your company? A. They are handled on what is known as the salaried managing agency system.

Q. Have you a number of departments supervised by a salaried general agent? A. We have some seventy-five or six of such agents in the United States, I should say.

Q. Do these general agents have commissions as well as salaries? A. They have—they receive a salary and usually a small percentage on the first year's premiums.

Q. No renewal commissions? A. No renewal commissions.

Q. What does the compensation of the 75 salaried agents, including whatever commission they may have on first year's

*Testimony of Robert H. McCurdy*

premiums, amount to annually? A. I can't say. Their salaries range from \$2,400 to \$10,000.

Q. \$10,000 is the maximum? A. \$10,000, I think, is the highest anyone receives.

Q. And have you more than one salaried agent who has a salary of \$10,000? A. No; I think not.

Q. And what department has he? A. He has the Department of Chicago.

Q. That city alone? A. Cook County.

Q. Well, what would his compensation be from first-year premiums in addition to the salary? A. Mr. Preller, can you tell me what the first year's premiums were from Chicago?

Q. Have you got the figures? A. I supposed those were the figures you wanted.

MR. BECK: We made a mistake in the figures.

Q. I am asking you what commissions the salaried agent in Cook County received over and above his salary? A. He received one per cent. on new premiums from Cook County.

Q. That amounted to about how much?

THE WITNESS: Can you help me, Mr. Preller? Can you tell what the new premiums were for Cook County?

MR. PRELLER: I can't tell offhand. I can find out for you.

THE WITNESS: I can't give you that. I can telephone, Mr. Hughes, if you want me to.

Q. For how long a time are the salaried agents employed?  
A. On yearly contracts.

*Testimony of Robert H. McCurdy*

Q. Do you recognize the fact that under the law in dealing with officers and agents, salaried employees of the company, it is necessary to have contracts not extending beyond the term of one year? A. That has always been the custom. All the agents' contracts have been for one year.

Q. Well, then, you must yearly fix the salaries of the officers of the company, or has any officer of your company any agreement with the company for longer than one year? A. No, he has not.

Q. Then what action is taken to extend his compensation at the termination of a given year? A. No action that I know of, sir.

Q. I understand that while you have been a member of the Finance Committee no action has been taken with regard to any salaries? A. Not to my knowledge.

Q. I read to you the provisions of Section 89 of the Insurance Laws of the State referring to life insurance companies in this State:

"No such corporation shall make any agreements with any of its officers, trustees, or salaried employees, whereby it agrees that for any services rendered or to be rendered thereafter by such official, trustee, or employee he shall receive any salary compensation or emolument that will extend beyond a period of twelve months from the date of such agreement or contract."

Has any agreement or contract been made with any officer or salaried employee or trustee of the Mutual Life for compensation for services for a longer period than one year? A. No, sir; not to my knowledge.

Q. Will you explain how it is that in seven districts the general agency system is still maintained instead of the salaried agents' system? A. I think I can best answer that, Mr. Hughes, by showing you a map for the years 1904-1905. That

*Testimony of Robert H. McCurdy*

is to say, the division of the United States between salaried agencies and commission agencies since I became general manager. Previous to that time I have no official knowledge.

MR. HUGHES: I will mark this for identification.

(Marked Exhibit 263 for identification.)

Q. According to this map the parts colored blue are the territories under salaried managing agents and the parts colored red became salaried managing agencies from January 1, 1904, and the white are still on the old basis of general agencies with commissions? A. They were at that time, yes, sir. The red indicates agencies that we had decided in 1903 to convert on January 1, 1904.

Q. When did you begin the change from the old general agency system to the salaried agency system? A. St. Louis—the general agency at St. Louis on December 1, 1898, was changed from a commission agency to a salaried agency basis.

Q. That was the first of these changes? A. That was the first of these changes.

Q. What was the reason for that change? A. I can't say, sir; I wasn't an officer of the company at the time.

Q. Well, have you any idea about it? A. I have not. I was not familiar in any way with the domestic agency business.

Q. How rapidly were other changes in other departments effected? A. On June 1, 1900, Chicago was changed; in 1901 two agencies, Baltimore and Topeka, were changed; in 1902 nine agencies, Boston, Buffalo, Hartford, Cleveland, Indianapolis, Albuquerque, Toronto, Yonkers, Milwaukee; in 1903 there were nine agencies, Denver, Detroit, Evansville, Man-

*Testimony of Robert H. McCurdy*

chester, Providence, San Francisco, New Falls, Springfield, Mass., Wheeling; in 1904 there were eight, Columbia, Helena, Jacksonville, Louisville, Montgomery, Rochester, Terre Haute, Wilmington; in 1905 there were four, Atlanta, Philadelphia, St. Paul, Seattle.

Q. What were the reasons for the changes that were made after you became general manager? A. You mean the reasons why we selected certain agencies to change?

Q. No, the reasons why you made or continued making any charges at all? A. In pursuance of the fixed policy which has been adopted by the company to convert in the general agency system, its system of—its agency system from general agency to the managerial one on a salary.

Q. What was the reason for the adoption of that policy? A. I was not an officer at the time, sir.

Q. Well, don't you know as a general manager what the reason is for the policy that you are carrying out? A. I do now; yes, sir.

Q. Will you please state what it is? A. It is supposed to be more economical to the company, more easily handled, small agencies rather than large territories, and productive of more business and a better system.

Q. You believe it to be a better system? A. I do believe it in certain agencies, in certain countries.

Q. You believe it to be more economical? A. In certain countries I do.

Q. Well, in the United States? A. In the United States I do.

Q. In changing from the old system to the salaried system what do you do with reference to the renewal commissions to which the general agents whose basis of commission is changed are entitled under their previous contracts, do you commute them, or do they continue, and the salaried system

*Testimony of Robert H. McCurdy*

is made applicable only to future business? A. The renewal commissions as called for by their contracts are paid them.

Q. So it does not make any change except in future business? A. That is all.

Q. Why did you not change C. H. Raymond & Company to a salaried basis? A. That question leads me back to the contract which I made with C. H. Raymond & Company as of December 31, 1903, whereby I continued their contract which ran through 1904. I continued it through 1905 and it is the contract that Mr. Raymond testified to yesterday, and as I made the contract I should like an opportunity of explaining it and why I made it.

Q. Do you refer now to the last contract? A. To the last contract.

Q. Well, we will come to that in just a minute. A. Yes.

Q. But before we come to that, if I recall the testimony aright, the contracts of C. H. Raymond & Company were yearly renewed on a basis which obtained as far back as 1897, and the contract appeared to be approved for another year from time to time. Am I right in that? A. I believe you are.

Q. Now, why was it, that when the question of renewing C. H. Raymond & Company's contract for another year came up that the company did not put that agency upon a salaried basis? A. They had a contract when I became general manager in July, 1903, which terminated December 31, 1904. That contract was not made by me. It was made by my predecessor.

Q. Dr. Gillette? A. Dr. Gillette, I believe.

Q. So that you do not know why it was that any of these contracts were made with C. H. Raymond & Company prior to the time when you became general manager? A. No, sir.

Q. So far as you know was there any reason why C. H.

*Testimony of Robert H. McCurdy*

Raymond & Company, when their contract expired, we will say, in 1900, should not have been changed to a salary basis?

A. I am not familiar with the conditions existing in their agency or in other domestic agencies at that time.

Q. Well, that is the point I wanted to get at. So far as you know, with whatever familiarity you had with the affairs of the company, there was no reason why that change should not have been made at that time? A. I had no familiarity with the agency affairs in this company at that time.

Q. Then you did not know anything about it? A. I knew nothing about it.

Q. Was that question discussed by you with anyone? A. At that time?

Q. Yes. A. No, sir.

Q. Now, I mean in the years 1900 to 1903, we will say, before you became general manager? A. No, sir; it was not.

Q. Did you ever talk with your father in regard to domestic business? A. Only in a general way, not with reference to this contract.

Q. Not with reference to the changing of agencies from one system to another? A. Only as an expression of my views as to the advantage in doing so, principally as applied to foreign agencies.

Q. Well, the advantage was more conspicuous in the United States, I suppose, but you expressed your opinion of the undesirability of it abroad, is that what you mean? A. I tried it abroad, sir, and it did not work.

Q. When it came to 1903 and you, as general manager, had the question up of renewing the contract with C. H. Raymond & Company, you entered into this last contract, you desired, as I understand, to explain your reasons? A. I do.

Q. Will you please do so? A. When I became general manager in July, 1903, I found, as I say, that C. H. Raymond



*Testimony of Robert H. McCurdy*

& Company had a contract which ran through 1904. They were doing a business, and had been doing a business for five years previous to that time, which averaged seventeen millions of business a year. They had six branch offices in this city and Brooklyn. The other companies, principally the New York Life and the Equitable, were establishing branch offices all over the town. I wanted to do the same. I wanted to develop the business for the company here in New York, and I wanted to do so by establishing a number of branch offices with respective managers. To do that I calculated it would cost the first year of the establishment of such offices about one hundred and fifty thousand dollars. I could not very well ask C. H. Raymond & Company, who had a contract running for eighteen months, to put in one hundred and fifty thousand dollars. I could not very well instruct or ask C. H. Raymond & Company to put up one hundred and fifty thousand dollars in renting and furnishing and establishing offices when the length of their contract was for eighteen months, and they had every reason to believe that at the expiration of that contract, following the general policy of the company, that their agency would also be converted into a salaried basis. What I wanted to do was to save a year and a half's time, and not to wait until December 31, 1904, before acting for the company. I could go ahead and develop the business of the company by establishing these offices. So I made this contract with them. I said practically, if you will allow us, the company, to establish these offices now, we will go ahead and do so, and we will spend not to exceed \$150,000, which was to be spent under the direction and supervision of the company's managers of its domestic agencies, Mr. Dexter. If you will allow us to do that, we will do so, and we will guarantee that you shall receive seventeen millions of business, that having been the average amount that

*Testimony of Robert H. McCurdy*

the agency was doing for the five previous years. Therefore, I assumed that it was safe for them to assume that they would do seventeen million dollars if not interfered with in the carrying on of their own business by the company, therefore I guaranteed them that amount. Then they were receiving renewal commissions, six renewal commissions of ten per cent. I reduced those renewal commissions from ten per cent. to six per cent., thereby making an annual reduction of four per cent. on the renewal commissions on business up to seventeen million dollars. They were then receiving on the first year's business  $87\frac{1}{2}$  per cent. commission. As an offset to the reduction of six renewals, of four per cent. each, I increased their first year's commission from  $87\frac{1}{2}$  per cent. to 96 per cent. I thereby commuted renewals on an assumed premium income at \$40 a thousand, the rate that we always take, on seventeen million dollars, that would be new premiums of \$680,000. Six renewals of 4 per cent. each, the amount of the reduction which came back to the company, amounted to \$163,200. That was their face value, those renewals;  $8\frac{1}{2}$  per cent. on the first year's premiums, the amount that I increased their first year's commission, amounted to \$57,800, so that by that increase of first year's commission and reduction of renewals, I was saving the company \$47,600. That was the reason I increased their first year's commission, and cut down their renewal commission up to seventeen million dollars. Then I said we are guaranteeing you seventeen million dollars. Now, we are putting up practically \$150,000 to develop this business, I expect that the establishment of these offices will result in a very large increase of business, it will exceed seventeen millions of dollars, but it will be the company's money which will have developed this business, and, therefore, I require that on the excess of seventeen million dollars, instead of receiving ten per cent. commission as you

*Testimony of Robert H. McCurdy*

now received, you shall cut that down to three per cent. I thereby saved the company a renewal commission of seven per cent. on business in excess of seventeen millions of dollars. By that contract, in exchange for these concessions which the firm of C. H. Raymond & Company were making, giving up these renewal commissions in excess, or rather cutting down the renewal commissions to three per cent. in excess of seventeen millions, allowing the company to come in and build up an organization and establish branch offices, an organization which would be a working and effective organization to turn this agency over as a growing concern, when we should convert C. H. Raymond & Company from the commission basis to the salaried agency—I say, in consideration of the firm allowing me to go in and do this thing for the account of the company, I extended the term of their contract for one year. That was the reason I did it. When, as I say, during the time in 1904, not to lose eighteen months while our competitors were going ahead, and to be able to do the same thing they were doing, and to have the Metropolitan District in such a condition that at the end of 1905, I could convert it into a managing agency on a salaried basis and have a developed organization with fourteen branch offices, fifteen including the home office, fifteen offices instead of six. That I did.

Q. Did you make a calculation as to what amounts C. H. Raymond & Company would make in 1904 under the new scheme of compensation? A. The scheme of compensation on first year's commissions with the exception of substituting a face value of \$161,000, by \$57,000, was the same as they were then getting.

Q. Did you know what amount they had been making? A. I did not.

Q. Did not you inquire? A. I did not.

*Testimony of Robert H. McCurdy*

Q. Did you not think it a part of your duty as general manager to ascertain whether the general agent was getting more money than the company could afford to pay? A. The general agent was getting the same—was receiving the same commission contract that the other general agents, that is to say commission agents of the company, were getting plus an allowance of ten and  $2\frac{1}{2}$ —about  $12\frac{1}{2}$  per cent., I think, it was ten per cent. and  $2\frac{1}{2}$ , or something or other which was a necessity by the conditions existing in the insurance business here in New York City. Those conditions do not exist except in certain other portions of the United States, principally in large cities where men have got to be paid more.

Q. Let us see. Are you able now to state how much your general agent in Cook County made in 1903? A. Mr. Preller, have you got the first year's premiums from Cook County yet?

MR. PRELLER: No. Do you want them?

THE WITNESS: Yes. Will you telephone for them?

Q. I thought you had them here, is the reason I asked that question.

MR. BECK: We would not know the net profits to the Cook County agent, and I would suggest if you would ask the witness whether it is the custom of the company, or any other company, to inquire what the net profits of the general agencies are.

Q. I think that is a very pertinent question and I will ask it. Is it the practice of those who make contracts with general agents to find out how profitable the contracts already existing with such agents are? A. It is not.

*Testimony of Robert H. McCurdy*

Q. In other words, you go on making contracts with general agents for the payments of commissions or salary plus commissions without knowing how much money the general agent is making under the system already in existence? A. That is not quite so. The company pays, as does every other company, and I suppose every other business, as much commissions as it is necessary to pay to secure business.

Q. You recognize the fact, do you not, that the expense in procuring business presents a very serious question for the insurance companies? A. I think all the companies would be glad to reduce their expenses if it were possible.

Q. Has it not been brought sharply to your attention as general manager of the Mutual Life Insurance Company that in the year 1904 the amount expended by the Mutual Life Insurance Company was very largely in excess of the loading upon its premiums to meet expenses? A. Not in that form, I think, Mr. Hughes.

Q. I find in the insurance year book that for 1904 the loading earned on premiums and annuities by your company was \$13,973,720 and that the insurance expenses incurred were \$15,278,727, and that the percentage of insurance expenses to loading was 109.34 per cent. Are you acquainted with those facts? A. No, sir; I was not acquainted. I may say that the actuary—(book handed to witness by Mr. Hughes)—no, I have not seen it. I may say that the actuary makes those calculations. My duties have not been in that direction.

Q. It also appears from the Insurance Year Book that the dividends to policyholders, exclusive, of course, of death claims paid and matured and endowments and surrendered policies, aggregated in 1904 \$2,674,207, about \$200,000 less than in 1903 and about \$200,000 more than in 1902, and that during the same year your gain and loss exhibit showed an excess of insurance expense incurred over the amount loaded

*Testimony of Robert H. McCurdy*

upon premiums and annuities to meet such expenses of considerably over a million dollars. Now was there not a discussion among the officers of your company to ascertain what steps could be taken to reduce your expenses, and among your expenses the expense of getting new business? A. That is a constant effort of the officers, to reduce expenses, but no means has been found of reducing expenses unless you very seriously reduce your business.

Q. Well, you reduce expenses when you change to a salaried basis, for example, the general agencies, don't you? A. Ultimately, carried through a series of years, you do. The immediate effect though of converting from the commission basis to a salary basis is an increase of cost of the first year's business.

Q. It would appear from the statement that has been introduced in evidence that in the year 1902 C. H. Raymond & Company had made net some \$214,000 over and above their expenses, and in 1903 some \$228,000, and in 1904 some \$247,000. Are we to assume that in making this new contract in 1903 you did not take any steps to ascertain whether C. H. Raymond & Company were making more money than could properly be expended by your company in rewarding general agents for their services? A. I did not.

Q. Did anybody else in your company? A. Not that I know of, no.

Q. Of course you know Mr. Thebaud very well? A. I do.

Q. You both live in Morristown? A. Practically, yes.

Q. You are intimate not only as members of the same family but as associated in the same business? A. Yes.

Q. Did not you know what Mr. Thebaud was making out of the company? A. I had not the slightest idea.

*Testimony of Robert H. McCurdy*

BY MR. ROGERS:

Q. As the custodian of the funds of this company, in a great fiduciary capacity, how do you justify your failure to make such inquiry, I mean the custodian in a general way?

A. The officers of the company have none of them had any means of knowing what the profits of general agents were. On the general agency system the business, as I said yesterday, is farmed out. The general agent is paid a gross commission. That gross commission is regulated by the amount that we know the other companies pay in the same field, and that it is necessary to pay that the general agents shall be in a position to pay as much as is paid by other companies. That is the way the gross commission is regulated. The amount that the general agent makes out of that contract depends largely upon himself and the organization of his particular territory. If he can get business from a sub-agent for 30 per cent. when he is receiving 60 per cent. he does it. If it is necessary for him to pay 80 per cent. when he is receiving 75 per cent. he is very apt to do it if he wants the business and wants to get the renewal on it. In other words, the general agent is practically a merchant conducting business on his own account, for his own profit. He is responsible to the company practically for everything, every policy that is delivered to him he is responsible for that premium and is responsible for all defalcations that may occur; he is responsible for losses and for medical fees on policies not taken; he is responsible for a variety of things, postage, telegrams, he pays everything. He is, in fact, a merchant on his own account. That has been the system on which all the life insurance companies not only in this country but abroad have built up their business.

Q. That responsibility does not amount to a guarantee of

*Testimony of Robert H. McCurdy*

payment of premiums if they are not paid by the insured?  
A. Not by the insured, but if they are collected by his agents. Of course he is at liberty to return the policy if he does not collect the premium. But that general agency system, as it is called, has been the system which has built up all these large companies. It is large rewards for large achievements. It has been not only so in the life insurance business, but it has been so, I may say, in this whole country, large rewards for large achievements. It has been so in the steel business, railroads and iron and every other industry. An agent for the Mutual Life or any other general agent for any other company, if he does a large business, a good business, a stable business that renews and is profitable to the company, makes large profits out of it. And with regard to this New York general agency, as I said, I was not aware until two days ago, when I saw that statement, what the profits were. I had no idea what the profits of C. H. Raymond were, nor did I know until a couple of months ago the proportion on which they were divided between Mr. Thebaud and Mr. Raymond. But I want to say that this business in New York is probably the best business the company has got on its books. It renews better, the medical examinations are made more closely, it is under our direct supervision and if the general agent has made large profits he has given a large and most excellent business to the company and he is only, to my way of thinking, following out the entire system which had prevailed in the developing of this whole country, of large rewards for large achievements. And, in that sense, I think he has been justified in making large profits.

Q. If it is the best business, as you state, and as I have no question, why then should not the remuneration for it be proportionately lower rather than larger than that of other agencies, following out the law of business which you have



*Testimony of Robert H. McCurdy*

been invoking? A. A man scarcely gets paid smaller profits for doing good work than on bad work.

Q. No, but the compensation for obtaining that which is best in the sense of being most permanent is usually lower? A. It is best for him and it is best for the company. It would not be good for him if it were not good for the company, and if it is bad business for the company it is bad for him.

Q. For example, the rate of interest on the best security is and ought to be lower than upon that which is of a lesser degree in value? A. Well, that is rather averse when you go into securities that bring investment returns. I am speaking of producing business desirable either to a life insurance company or to any other company; in any business, in fact.

BY MR. HUGHES:

Q. It is very interesting to follow that thought of yours about large rewards for large achievements, but it is pertinent to inquire just who are benefited by those achievements. It is easy to see that C. H. Raymond & Company have been, but I see by looking at your dividends to policyholders that in 1897 they amounted to \$2,507,521, whereas in 1904 they amount only to \$2,674,207, an increase in the operations of your company, that is, to policyholders in dividends, through the operations of your company of about \$170,000. Now, is not that because of the very large expenses that your company has been under? A. Not of necessity; no, sir.

Q. Well, that is the explanation of it? A. One explanation of it, that the amount of dividends paid in any one year by the Mutual Life, or by the New York Life, or the Equitable Life, depends upon the number of deferred dividend policies which became entitled to dividends in that year. So then, during the years that a company is doing business on a

*Testimony of Robert H. McCurdy*

deferred dividend system it is not paying dividends; it is earning dividends, putting them away in surplus, but it is not paying them. Those dividends are paid as the policy contracts mature. In other words, you would say that the dividends paid to policyholders would not furnish a fair criterion of the prosperity of the company? A. It would not.

Q. And you have constantly for many years been writing deferred dividend policies very largely, so that each year a group of policies matured, is not that so? A. No twenty-year distribution policy has yet matured.

Q. Oh, indeed. And these policies that have been maturing are of what class? A. Distribution policies of a less time than the twenty years—five, ten and fifteen.

Q. Of course you would recognize the feasibility of paying only a hundred thousand dollars for business if you could get it for a hundred thousand dollars, and not pay two hundred and fifty thousand dollars for it if it was not necessary? A. Naturally.

Q. But there must be some limit to what you would allow general agents to make. Do I understand that the amount of compensation is really governed by what you find out other companies pay? A. By what it is necessary to pay in the prevailing market in which you are doing business if you want to continue business.

Q. Well, now, what general agent in New York, according to your knowledge, was getting as much money out of the insurance business as C. H. Raymond & Company? If you have any information on that subject we would be very glad to have it? A. I haven't any information. I didn't know what they were getting out of it until two days ago.

Q. Then how can you fix the compensation of C. H. Raymond & Company with reference to what other agents get? A. Because it is necessary for C. H. Raymond & Company—it

*Testimony of Robert H. McCurdy*

is necessary for C. H. Raymond & Company to pay practically eighty and eighty-five per cent. for their business. Now, I have here one of many circulars which one of our agents received on October 4, 1905. I won't mention the name of the company, but they say—they offer annual dividend commission of seventy-five per cent., non-participating sixty. Here is their circular: Commissions, seventy-five per cent. on participating, sixty-five per cent. on non-participating. Renewals, we are making the very highest renewal commissions for personal or surplus business. That means to say that C. H. Raymond & Company, who were getting eighty-seven and a half per cent. have practically got to pay seventy-five and eighty; for large business they have got to pay more than eighty per cent.

Q. Well, do you know that the Equitable, for example, pays any general agents in New York City as much as C. H. Raymond & Company received? A. I don't know what the agents of the Equitable get.

Q. Or that the New York Life paid any general agents in this city as much as C. H. Raymond & Company received? A. I know that the agents of the company receive from either the New York Life or Equitable as high commissions as ours do. That is to say, ours are not paid higher than they can get at the other companies.

Q. I am not speaking now of the man who writes the business, of the man who actually gets the policy. I am speaking now of the general agent whom the company pays for the business. Is there any general agent that you know of who gets as much or has received as much in the last two years as C. H. Raymond & Company? A. I don't know what any of their general agents get.

Q. So that you had no such basis for comparison when you made this contract with C. H. Raymond & Company? A.

*Testimony of Robert H. McCurdy*

I simply continued the contract that my predecessor had made with certain modifications which I thought were to the advantage of the company.

Q. Didn't it ever occur to you to say to Mr. Thebaud in your intimate relations with him, "What are you getting out of this? How much is the company actually paying you? We want to reduce expenses." A. I never asked him about his personal affairs; no.

Q. Well, his personal affairs happened to be also the affairs of the Mutual Life Insurance Company. What have you done, if anything, in the last year or two years, under your management, to reduce the expenses of the Mutual Life? A. I have reduced—I cut down commissions in some of the agencies where it was possible.

Q. Now, what general agency have you cut down the commissions? A. Well, there—I am afraid you have got me there. There were some of the managing agencies in the smaller districts.

Q. Have you cut down any large agencies? A. Not in the large cities where it is necessary to pay large commissions, no.

Q. Have you cut down any salaries either in the home office or elsewhere? A. No salaries, no.

Q. Have you cut down any other expenses? A. Yes; I have reduced, last year, for 1904—the printing and stationery and supplies were reduced—.

Q. Do you recollect, Mr. Preller, how much it was cut down?

MR. PRELLER: 1904? I can't answer offhand; I can get it.

*Testimony of Robert H. McCurdy*

THE WITNESS: It was considerably reduced and the general expenses of the company last year were reduced.

Q. In what way? A. For 1904—for 1904 the company did twenty-three millions more business than the year before and its ratio of expenses was reduced on first year's business—it is my impression it was reduced about 2 per cent. It is difficult to recollect.

Q. It would appear that the new business of 1904 was sixteen millions more than the new business of 1903? A. Was it sixteen? I thought it was **twenty-six**.

Q. The figures here are \$215,000,000 for 1903 and \$231,000,000 for 1904. A. Yes. Then I was carrying it for two years. I think the increase in the previous year was about ten.

Q. For two years? A. Yes.

Q. The expenses in 1902 were \$15,078,050, in 1903 \$16,152,000 and in 1904 \$16,898,000.

CHAIRMAN ARMSTRONG: Are the percentages given there, Mr. Hughes?

MR. HUGHES: No, they are not right here.

BY CHAIRMAN ARMSTRONG:

Q. At what ratio do you figure expenses, Mr. McCurdy?  
A. What did it cost—

Q. What was the ratio of expenses? A. The ratio of expenses was about 25 per cent., was it not, Mr. Preller?

Q. You don't understand me. What basis did you adopt as a ratio? By dividing your gross expenses by the amount of first year's business put? A. There are a variety, a great number of ways of calculating

*Testimony of Robert H. McCurdy*

Q. What ratio do you refer to when you say it was reduced 2 per cent.? A. The percentage of income to outgo.

Q. Total income to total outgo? A. Yes.

BY MR. HUGHES:

Q. Well, the total income of your company in 1902 was \$73,305,023 and your expenses \$15,078,950; in 1903 your total income was \$77,333,713, your total expenses \$16,152,412. In 1904 your total income was \$81,002,984 and your total expenses \$16,898,456. Do you know what loading there is upon your premiums to meet expenses—what percentage is taken of the premiums for that purpose? A. It varies. That is an actuarial question I am not competent to answer. It varies on different forms of policies I think.

Q. There is no effort, so far as you know, in your company to disregard the importance of the loading being sufficient to meet the expenses. You don't intentionally put aside that question? A. Why no.

Q. Your intention is to have the loading meet the expenses and have a saving? A. Our intention is to get the expenses down as low as we can.

Q. And one of the sources of increase or of surplus in the insurance company is the amount you may make over the amount with which you have loaded your premiums to meet expenses. Isn't that so? A. I presume it is, Mr. Hughes. These are actuarial questions that I am not competent to answer.

Q. Now I notice that in the case of the Equitable the loading on premiums and annuities was \$15,346,022 and the insurance expenses incurred were \$13,880,583 or 94 per cent. of the loading; that in the case of the New York Life the loading was \$18,279,492 and the insurance expenses incurred were \$18,237,764 or 99.77 per cent. of the loading while as I have stated in the case of the

*Testimony of Robert H. McCurdy*

Mutual Life, the loading was \$13,983,720 and the insurance expenses were \$15,278,727 or 109.34 per cent. of the loading. Has not this matter, I am getting at, been taken up seriously by the executive officers of your company to see if they could not get the expenses of your company down? A. It has undoubtedly been considered by the actuary and I presume by the president or vice president, but it never came within my functions to consider those questions.

Q. Is there any general agent in the United States of your company during the last two years who has received as much as C. H. Raymond & Company? A. You mean as much net profits?

Q. Yes. A. I don't know.

Q. Is there any agent or firm of general agents in the United States that have during the last two received as high a rate of compensation as C. H. Raymond & Company? A. You mean from the Mutual Life?

Q. Yes. A. It is my impression that in Texas—it is my impression that in Texas the same allowance of ten per cent. was made.

Q. Have you the contract with the general agent in Texas? A. Not with me, no.

Q. When was it made? A. It was renewed from year to year.

Q. Has it been renewed by you? A. Under my direction.

Q. Well, can you state the terms of it? A. May I see Mr. Preller? He can give me that. (Witness consults Mr. Preller.)

Q. Are you able to make a statement on that? A. Not at the moment, no sir.

MR. BECK: Mr. Hughes, wouldn't be it fair to inquire at this time whether there are any special considerations which make it necessary to pay higher commissions in New York?

MR. HUGHES: Well, if it is admitted by the witness that

*Testimony of Robert H. McCurdy*

higher commissions are allowed in New York than anywhere else, then I will ask him what the reason for that is.

Q. Do I understand that is the fact, that higher commissions are allowed here than anywhere else?

THE WITNESS: No, sir, I think not. I have just said I think Texas received the same.

MR. BECK: Well, with the exception of Texas.

Q. With the exception of Texas are higher commissions allowed to C. H. Raymond & Company in New York than to anybody else? A. I think they probably are.

Q. Well, now, what is the reason for that? A. The reason for it is that it costs more money to get business here.

Q. Don't you think that you could get Mr. Thebaud's services for a hundred thousand dollars a year if you wanted to? A. If he didn't have a contract with the Company I suppose he would.

Q. Yes, if you didn't make the contract under which he could get more you could get his services for \$100,000 instead of \$147,000, which he got last year? If he didn't have any contract and I offered him a hundred thousand dollars salary I have no doubt he would be very glad to serve.

Q. And for that matter \$50,000? A. I am not prepared to say.

MR. BECK: Mr. Hughes, you ignore entirely the situation in New York in developing the business.

MR. HUGHES: Not at all. I am talking only of the net profits.

MR. BECK: The object of my suggestion was to know whether



*Testimony of Robert H. McCurdy*

there were not conditions in New York that made it necessary to offer a larger commissions to get large results.

MR. HUGHES: I understand that the conditions of competition in New York are such that the men who get the business have to be paid the same as other men who get the business have to be paid, but what I am talking of is what remains net of which Mr. Thebaud gets three-fourths and of what he got last year \$147,000 net, and I want to know what the reason is of having such a contract outstanding that would justify such a payment by the Mutual Life Insurance Company.

Q. Now, if you can state any reason I would be very glad to have you do so fully? A. I can only repeat what I have said before, that the business was very large, very good, and therefore the profits were very large and good.

Q. Now it would seem by these figures that have been taken from the Insurance Year Book——

MR. BECK: Mr. Hughes, if you will pardon me a moment, you did not quite catch the purport of my suggestion. You had asked originally why it was that the New York commissions were larger than other agencies throughout the country. Now, of course the implication that goes out to the public is that they were larger because it happened that a relative of the president was a member of the firm. Now, I would like to ask in fairness, both to the president and to the general manager, whether there are not certain circumstances which require the New York agency to be compensated with larger commissions than any agency in the country.

MR. HUGHES: The witness has been given a very full opportunity to state it, and I will give him another. It is just

*Testimony of Robert H. McCurdy*

what I want to get at, why Mr. Thebaud should have so much money.

THE WITNESS: I say the business here in New York costs more money to get.

MR. BECK: Is not competition keener?

THE WITNESS: The competition of course is keener.

BY MR. HUGHES:

Q. Now, it costs more money to get in the commissions paid to sub-agents? A. Yes, sir

Q. In the expenses of the office? A. Yes.

Q. In all the expenses that go to make up the total of the amount that has to be disbursed by C. H. Raymond & Co. in getting the business, and after all that is said and done, C. H. Raymond & Co. in 1904 got \$247,000 net and Mr. Thebaud \$147,000 net. Now, are there any conditions of competition which render that necessary? If so, explain them. A. I can only say, Mr. Hughes, that they were making what they could out of the contract, and the company had no knowledge what that was.

Q. Exactly. They were there to get all the money they could out of it, and you didn't know in your line of business that they were getting so much or that you were in a position to get them to take less? A. They were doing exactly what every other agent and every other merchant, as I have said, was doing, to make all they could out of their business.

Q. Of course, and it is the function of general managers of companies to keep the expenses down, isn't it? A. They try to, yes.

*Testimony of Robert H. McCurdy*

Q. Did you mention the name of the Texas agent? A. Chamberlain & Gillette.

Q. Who is Gillette of Chamberlain & Gillette? Is he any relative of Dr. Gillette's? A. He is a brother of Dr. Gillette

Q. How long have Chamberlain & Gillette been the agents of the company in Texas? A. Well, they were appointed before my time, I really can't say; a number of years.

Q. How long have they had special rates of compensation, better than those accorded to other general agents? A. I can't say when that allowance was made them.

Q. How much does Mr. Gillette get out of the business? What is his interest in the firm? A. I don't know.

Q. I would like to have you produce the contracts with Chamberlain & Gillette for a period of ten years? You mentioned Mr. Raymond.

THE WITNESS: Mr. Preller, will you take a note of that, please.

Q. You mention Raymond as general agent for New Jersey? A. Yes.

Q. Is he a relative of Mr. Charles H. Raymond? A. He is a brother of Charles H. Raymond.

Q. Please produce the contracts with him for a period of ten years? Has he been with the company for some time? A. Oh, yes, a number of years.

Q. Ten years? A. Fully.

Q. Well, if you will bring the contracts with him for ten years I should be obliged.

THE WITNESS: Have you a memorandum, Mr. Preller, of that, a contract for ten years with George Raymond and Chamberlain & Gillette.

*Testimony of Robert H. McCurdy*

BY MR. ROGERS:

Q. I was going to ask you, Mr. McCurdy, what the general conditions are in Texas that require an exceptional contract?

A. It is very sparsely settled country in relation to the amount of business. I don't mean to say that it isn't reasonably civilized, but traveling expenses are very high; it is a very large State, requires a large agency organization, branch offices, travelling agents.

THE CHAIRMAN: It is popularly supposed that risks in life insurance would be larger in Texas than in New York.

MR. BECK: They are extra hazardous.

MR. HUGHES: Especially in regard to affidavits.

BY MR. HUGHES:

Q. Then I understand that if a territory is thickly settled like Manhattan Island it is necessary to give a special rate, and if it is sparsely settled like Texas it is necessary to give a special rate? A. I didn't say so.

Q. I said that was my understanding. Of course, you may not agree with it. A. You are mistaken.

Q. Well, what is the fact? A. The fact is it costs more to live in New York City.

Q. We all appreciate that. And then when you come——

MR. ROGERS: It costs less to die in Texas, is that it?

Q. And I suppose in Texas you have to be paid more for living there? A. Well, I don't know that, but the expenses of getting

*Testimony of Robert H. McCurdy*

business in Texas owing to the fact, as I say, the business has to be produced from a long range, it makes it an expensive business to get.

Q. Now, let us go through the roll of the general agents. You have given me Mr. Raymond in New Jersey. He is a brother of Charles H. Raymond. And Chamberlain & Gillette of which Mr. Gillette is a member. Now, who are the other general agents? A. Let's see. In Nebraska and Iowa there were the Fleming Brothers—Fleming.

Q. Are they at all related to any one in your company? A. In no way.

Q. Any executive officer? A. No, sir.

Q. Go on. A. In Louisiana, there is Post. Is that right, Mr. Preller?

MR. PRELLER: Yes, sir.

Q. Is he a relative of any executive officer? A. He is not. In Arkansas, Remmer.

Q. Is he a relative? A. He is not. In New Jersey, George Raymond. He is not a relative of any officer of the Company.

Q. Who was the last one? A. George Raymond.

Q. Is he a relative of Charles H. Raymond? A. He is a brother of Charles H. Raymond.

Q. What territory has he? A. He has New Jersey.

Q. He is the one you mentioned a moment ago? A. Yes, sir.

BY THE CHAIRMAN:

Q. You said he was not a relative of any of the executive officers? A. Yes, sir.

Q. Now, with regard to any of these other general agents in regard to whom you have testified they are related to no execu-

*Testimony of Robert H. McCurdy*

tive officer, are there any relationships between them and any executive officer? A. No, sir.

Q. Or any one holding positions with your Company? A. No, sir.

Q. Of any kind that you know of? A. No, no. And in Northern New York State, the Albany agency, is Howard Lewis. I believe Howard Lewis is a second cousin of either Mr. or Mrs. Granniss. I am not sure which. Some distant connection.

BY MR. HUGHES:

Q. Go on. Is that all? A. I think that completes the list in the United States, yes, sir.

Q. Now, are there any of your salaried agents who are related to any of the executive officers of your Company? A. No, sir.

Q. While we are on that matter, let me ask you, the medical director of your Company is Dr. Elias J. Marsh? A. Yes, sir.

Q. Is he a relative of yours or your father's? A. He married my father's sister. It is my impression he married her after his connection with the Company. I believe he was an examiner of the Company previous to the time he married her.

Q. What is his salary? A. I don't know.

Q. How is it, Mr McCurdy, that you as a director of the Company do not know the salaries paid to the officers? A. The cashier, I believe, has a list of the salaries, and he pays them, and I don't think any of the officers or any of the employees know what the salaries of any other officer or employee is.

Q. And these salaries are fixed by the directors or by the Finance Committee of the Directors, are they not? A. Yes. The executive officers and so on.

Q. Don't you understand that it is your duty as a director to know what salaries are paid, and to have a conviction as to their propriety? A. No, I never have known.

*Testimony of Robert H. McCurdy*

Q. Who is Mr. P. Stuyvesant Pillot? A. You mean his relation to Mr. Thebaud, I suppose you want to know?

Q. Yes, both to Mr. Thebaud and to the Company. A. He is a cousin—he is a cousin of Mr. Thebaud and he has the title of Inspector of Risks.

Q. What does that mean? A. It means that risks that are—well, that don't go right straight through, perfectly clean risks, he takes them up, considers them, corresponds with the doctors about it, or the agents, offering them before the Committee that meets to consider such cases, or brings them to an executive officer. That sort of thing.

Q. How long has he held that position? A. I really don't know. A number of years.

Q. What is that? A. A number of years—six or seven years, I don't know.

Q. What is his age? A. I should say he was about forty—about forty I should say.

Q. Was he connected with the Company prior to that time? Prior to the time he became Inspector of Risks? A. Yes, he was——

Q. Where was he before that time, Mr. Preller? A. (continuing): His first connection with the company was in the Metropolitan Agency as a clerk there, and after that he went into the home office. I think it was in the policy department, or somewhere else, I have forgotten.

Q. What is his salary now? A. I don't know.

Q. Who is Mr. Granville M. White, is he the secretary of your company? A. He is one of the secretaries, yes.

Q. Is he a relative of any of the other officers? A. I don't think he is.

Q. Is he a nephew of Mr. Granniss? A. I don't think he is. I think that Mrs. White is a niece of Mrs. Granniss.

*Testimony of Robert H. McCurdy*

MR. BECK: Mr. Chairman, if it is going to be declared a crime for a man to have either a brother or a niece by marriage, it seems to me the President will have to modify his views on race suicide.

Q. Is there a Dr. White also connected with your company?  
A. He was—he is a doctor by profession, although he does not practice.

Q. Who, Granville M. White? A. He is the same man.

Q. You handed me a statement of the foreign business which was under your management until 1903, I believe. And who succeeded you as superintendent of the foreign business? A. Mr. Henry E. Duncan, who had been Deputy Superintendent.

Q. What is his salary? A. His salary at present is—I think it is \$13,000.

Q. Has he any interest in the foreign business, that is, by way of commissions? A. No.

Q. His total reward is \$13,000? A. \$13,000 or \$14,000, I have forgotten which it is; \$13,000 I think.

Q. And when you were superintendent what did he receive as deputy superintendent? A. I think it was \$10,000 the last year.

Q. And then had no interest by way of commissions in the business itself, I believe? A. No, sir.

Q. Now, it would appear that in 1904, the first year's commissions paid upon the foreign business amounted to \$985,629. I presume there were varying rates of commissions in different countries? A. They were—practically the same rates were paid in all the countries of Europe—all the European countries you may say.

Q. Will you state what general agencies department you have who were in charge of them, what compensation the general agents received, what they paid to sub-agents, so that we can



*Testimony of Robert H. McCurdy*

understand the manner in which the business has been conducted?

A. You mean to say the foreign offices?

Q. Yes. While it was under your management down to 1903? A. I forgot to ask Mr. Vesey for some contracts. I can give you some, Mr. Hughes, from memory.

Q. Yes. A. For instance, in Great Britain and Ireland, the manager for Great Britain and Ireland, receives a salary of four thousand pounds and no commissions.

Q. If you will pardon me interrupting you, now, did the manager for Great Britain and Ireland have the general supervision of the writing of insurance for the British Isles? A. Yes.

Q. Complete control? A. Yes.

Q. He paid his own agents? A. Yes.

Q. Paid his own expenses? A. Oh, no, everything for account of the company.

Q. Of course, everything for account of the company, but in the case of C. H. Raymond & Company we found they paid their office expenses and all expenses incident to getting business and they got their commissions and they had a profit. Now, in the case of this general manager for Great Britain and Ireland who got, I understand, four thousand pounds—— A. Four thousand pounds.

Q. How was it managed? A. He managed the business for account of the company.

Q. You paid the expenses? A. Yes.

Q. And he got the returns? A. Yes.

Q. And turned over the balance after paying expenses to you? A. Yes. He made nothing out of it, he was on a salary, paid local agents for account of the company. There was nothing—there was no profit made by him between what he paid and what he got, or——

Q. How long has that been so? A. Since 1888, I should think, when he was appointed; about that time.

*Testimony of Robert H. McCurdy*

Q. Well, now, if you will go on with the rest of them that you are able to state. A. France, the general agent for France and Paris, receives a commission of seventy-five per cent.—is it, Mr. Vesey?

MR. VESEY: Seventy to seventy-five.

THE WITNESS: Seventy to seventy-five per cent. He receives an allowance—I should have to ask Mr. Vesey, who is the accountant of the foreign department, to help me in these things, because in each agency, while the rates of commission are practically the same, the allowances for various things are different. I can produce all the bond contracts if you like.

Q. You have in your statement of foreign business lumped the results of the business in all the countries together. You have statements, I presume, which will show the results of the business in particular countries? A. Yes.

Q. Can you state generally, however, in what countries the business has been particularly advantageous and in what, if any, it has been relatively less advantageous? A. Yes. Generally speaking, the English and the French business has been the most desirable and most profitable to the company. The French and English business are both very persistent, the mortality rate is good and it is desirable business.

The same is true of Holland and Belgium. They are small countries and the business is small, but as an example of what I mean, in Holland a year or two ago when I had that statement made up 98 per cent. of the premiums of the first year's premiums renewed the second year, showing a lapse of only two per cent. In Germany—we used to do business in Germany; we haven't done any business for—we haven't done any business in Prussia; we have done a little scattering business until two years ago

*Testimony of Robert H. McCurdy*

when we retired entirely from Germany on account of the Government requirements which we did not think acceptable. That is a long story. We have had a seven years' fight about it. The German business was profitable; it was good business, the mortality rate was not as good as in France for instance. Generally speaking, the Scandinavian business is expensive, because again it is sparsely settled. An agent to get business has got to travel—in Sweden he has got to go to the extreme north, 1500 miles, where the wheat fields are. The further north they get the more sun they have, therefore, crops; longer days. Then the towns are principally along the sea coast. It is expensive. The business is good when you get it, but it costs money to get it. The Austrian business is very good. The Hungarian business—the Hungarian business and probably the Spanish business, or I will say the Mexican business, are the least desirable, because of the characteristics of the people. They are not as serious; don't keep up their insurances.

Q. Have you a statement of the Mexican business here by any chance? A. I have not; no, sir. I would say, though, that the statement of the foreign business in detail from each agency is prepared and I can get it at any time.

Q. Can you have that here at this afternoon's session?

THE WITNESS: This afternoon, Mr. Vesey, will you have that?

Q. Do you do business in Australia? A. We do.

Q. With what results? A. Poor, very.

Q. You will have a statement of that here also. All the foreign business. What do you do under your general manager-ship beside attend to these agencies that you have mentioned?

A. Well, I confer daily with Mr. Dexter, the superintendent of domestic agencies; confers with me usually for upward of an

*Testimony of Robert H. McCurdy*

hour or an hour and a half; Mr. Duncan, the superintendent of the foreign department confers with me; Dr. White and Mr. Easton as secretary of the Company confer with me. Mr.—the corresponding secretary, Mr. Duer De P. Breck, confers with me, I confer with the actuary and the other executive officers; principally, almost exclusively, on agency matters.

Q. I find an item in your annual report for 1904, "Advertising, printing, stationery and postage, \$1,134,833.76." Who has supervision of the matters in which those moneys are expended?

A. The advertising—we have an advertising manager whose business it is to take care of the advertisements; the printing and supplies come under the supply department; postage and telegrams come in from the home office and branch offices, and so on.

Q. I find in your By-Laws the following provision in Article 34:

"There shall be a Department of Supplies and Printing, the chief officer of which shall be designated Superintendent of the Supply Department; all purchases of stationery and the miscellaneous supplies which are furnished by the Company for the use of the agents and for the use of the Company at its head office, and when directed by the President for the maintenance and current expenses of the Company's buildings, and for other purposes, shall be made by such officers under the authority of the President or of the Committee of Expenditures, and shall be reported weekly to such Committee."

Who is the Superintendent of the Supply Department? A. Mr. A. C. Fields.

Q. How long has he been such superintendent? A. For a great many years, I have forgotten.

Q. Who constitutes the Committee on Expenditures? A. Mr. Morford might know. Mr. Preller can give it to me. Mr. Olyphant, Mr. Miller and Mr. Holden.

Q. Who are the ex-officio members of the committee? A. I

*Testimony of Robert H. McCurdy*

don't think that any of the officers are ex-officio members of that committee.

Q. Do these gentlemen that you have named actively attend to the matter of supervising all expenses? A. They do.

Q. Is it the practice in the Mutual Life Insurance Company for payments to be made upon executive order without the authorization or approval of any committee? A. Ordinary payments in the course of business, yes.

Q. What class of payments would you say were ordinary payments that would be made by order of the President. I should suppose that the ordinary routine payments would be made without the special order of the president. A. Well, I mean to say, for instance, take advertising, payments to advertising, when particular magazines or papers or that sort of thing, they are made with the approval of our executive officer. Take—of course it is hard to say what sort of payments—but I mean to say that the payments that come up that are not covered by any particular allowance, and in the ordinary conduct of the business, are usually brought before an executive officer and then they are submitted to the auditing committee, the committee on expenses, are they not, Mr. Preller? I think Mr. Preller will be able to give you more accurate information on that than I can.

Q. I see. Mr. Preller is here. A. Yes, Mr. Preller is here.

Q. Mr. Preller is auditor of the Company under article 33 and has charge of the Company's accounts? A. That is right. Here are the first year's premiums of Cook County which you asked for. (Handing paper.)

Q. You now hand me a statement of the first year's premiums that the general agent received in Cook County amounting in 1904 to \$369,617.94, of which I understand the general agent was entitled to one per cent.? A. He is entitled to one per cent.

Q. Or \$3,696.18? Yes, in addition to that—

Q. And in addition to his salary of \$10,000? A. Yes, in

*Testimony of Robert H. McCurdy*

addition to that. These managers, as they are so called are entitled to commissions on their own personal work.

Q. Does that figure very largely in their account? A. In some of them it does.

Q. Does it in Cook County? A. I fancy it does.

Q. Have you any idea how much it would amount to? A. I have not before me how much his personal business was, but he was formerly one of the soliciting agents of the company and did a large business and I think he still continues to do it.

Q. Then do I understand that apart from the business that the agents may have personally secured in Cook County the entire compensation of the general agent for the year 1904 was about \$14,000? A. Plus his salary, yes.

Q. No—— A. He got his salary.

Q. I understand it was \$3,696, his one per cent? A. Yes.

Q. And \$10,000 as salary? A. \$10,000 salary.

Q. Making a grand total of about \$14,000? A. Yes.

MR. BECK Did not he have some commissions on his own business?

MR. HUGHES: I said, apart from what he got on the business that he personally obtained.

THE WITNESS: Yes.

MR. BECK: I do not mean that, I mean before it was turned into a salary basis, he still had his commissions.

Q. Mr. Beck suggests that Mr. Carlisle of Cook County may have had commissions coming to him on business which had been written previous to the time that the systems was changed.

A. How about that, Mr. Dexter?

*Testimony of Robert H. McCurdy*

MR. DEXTER: It was not.

Q. Now, perhaps, as Mr. Dexter is here, he can inform us at this point what amount Mr. Carlisle got of business that he wrote himself, approximately?

MR. DEXTER: His statement to me was that it was less than \$1,000 in 1904.

MR. HUGHES: Thank you.

Q. So we may assume that the entire compensation of the general agent in Chicago for 1904 was \$15,000? A. So far as we know, yes.

Q. And did he have charge of the Metropolitan district in Chicago? A. In Chicago, yes.

Q. All the business there? A. Yes.

Q. The Company itself paid the expenses? A. Yes.

Q. And paid agents for obtaining the business? A. Yes.

Q. And he had this salary and the commission you have stated? A. Yes.

Q. Now suppose a man comes into the office of the Mutual Life Insurance Company and wants to apply for a policy and gets one, is there any commission paid upon that to anyone? A. No, sir.

Q. Is there any allowance made to the man who gets a policy by going to the office, any reduction in premium? A. No, sir.

Q. He has to pay just the same as though the Mutual Life had paid C. H. Raymond & Company to get the business? A. He pays the full premium rate for his policy.

Q. Mr. Raymond said something yesterday about a competitor who was walking the floor of the office of the Mutual Life and some one interfering with the extension of the business of C. H.

*Testimony of Robert H. McCurdy*

Raymond & Company. What do you say about that? A. I mean to say that there are one or two gentlemen whose duty it is to be in the outer hall by the cashier's window and if anyone comes in and wants any information about insurance or wants to apply for life insurance he is taken in charge by one of these gentlemen who writes his application, takes him up to the medical department and has him examined.

Q. And no one gets any commission on that? A. No one gets any commission.

Q. Do these gentlemen to whom you refer do anything else? A. Oh, yes, any employee of the company who might happen to be outside there, away from their desk, might do it equally well.

Q. I mean these gentlemen who do this—— A. Oh, yes——

Q. They have other duties beside that? A. Well you may say practically—I don't know how you could describe their duties; they are out in the outer hall, and answer inquiries of people who come in and want to pay a premium or they have a death claim, they answer inquiries.

Q. Why is it that the Mutual Life does not allow something to those who take policies out at the home office without the intervention of agents? Why should not you make a concession on premiums to the man who goes to you and insures directly with the home office, in which case you have none of these expenses you have talked of in reaching him? A. I believe it to be a discrimination, would it not be?

Q. That is the reason? A. I should say so.

Q. Hardly a discrimination so far as the company is concerned. A. I believe it is against the law to discriminate in the rates.

Q. That is the reason in your judgment? A. And in addition to that, the man has not been solicited. The agent who solicits



*Testimony of Robert H. McCurdy*

the man puts in his time, and when he finally secures the risk he is compensated for his time and the work he has done on it.

Q. In other words, you do not favor the business coming to the office or being encouraged to come to the office and not to go through the general agency where the agent will obtain a large commission? A. Quite the reverse, we should be very glad if more is obtained.

Q. If there is any law in the way, you would be glad to see it changed so that people would come right down to the Mutual Life Insurance Company and insure at a considerable reduction in the premium? A. Certainly not. I do not believe in rebates.

Q. Then even if here were no provisions which you think would interfere, you would still not give any concession to the man who came to you directly? A. As a matter of fact, it would ruin your agency organization if you paid a commission to everybody who came.

Q. That is the point. A. Your agents have got to be protected. They are giving up their lives to this work and they are wearing out shoe leather, and they have got to be supported and protected, and if the company comes in as a competitor and pays a commission to everybody who insures his life, the agent has no protection.

Q. And that is all a part of the general necessity of maintaining an agency organization, so you can compete with other companies?

No answer.

Q. It is suggested to me that it is not a special practice in New York to protect Raymond & Company but exists throughout the country generally. Is that the fact? A. Why, of course.

Q. To protect all your agents? A. To protect the entire agency organization. You have got to.

Q. So apart from any provision of law or the amendment of any law, you would favor the idea of protecting your agents.

*Testimony of Robert H. McCurdy*

against the competition of the company itself? A. **Not** the competition of the company itself, but against the competition of their own applicants. I mean to say, that if an agent has put in his time, possibly it may be a month in soliciting a risk, and he finally gets the man to the point where he will insure his life; if that man can go into the company and get a commission and insure direct and get a lower rate, he is going to do it.

Q. Why should not he? A. Then you don't get any business, because you have not got any agents.

Q. That brings it to the point that you do not want, in deference to the maintenance of the agency system, to take business away from the agents? A. There never has been but one company that I know of in the world that tried to get along without an agency organization.

Q. Do you think it is practicable to maintain a company in this country without an agency organization? A. Absolutely impossible.

Q. Why impossible? A. Because you would not do any business.

Q. Well, why is that? A. Because nobody will insure their lives unless they are solicited to.

Q. What would happen if you did not take any more business for a little while? A. We would dry up.

Q. Are not you in such a position, as the Mutual Life Insurance Company, with your surplus and reserve to go on without the writing of new risks? A. Certainly. I have no doubt we are. Theoretically the whole basis of life insurance is——

Q. You have no doubt of that as a fact? A. I have no doubt of it.

Q. You could not maintain your position as an insurance company if for a moment the contrary were admitted. It is all based on the facts—— A. It is all based on the fact that you are solvent.

*Testimony of Robert H. McCurdy*

Q. And have a large surplus? A. Well, in a mutual company, yes, there is a surplus so-called.

Q. Well, the advantage in a mutual company of getting new business, serious consideration has to be given to the expense of getting it, and you would appreciate it, that there might be a time when it would cost too much to get new business and it would not improve for the policyholders to get in new business at the expense necessary. You understand that, don't you? A. Well, presumably that would affect all the other companies.

Q. Yes. A. It would dry up all the whole business in this country.

Q. Oh, no not quite that. It might be necessary to have less expense in getting the new business. It might dry up some of the agencies. A. Yes.

Q. Well, without going into that further, I suppose there are others that have studied that phase of the subject in your company more than you have—— A. What phase is that?

Q. I mean this question of expense in getting new business, and the amount of expense that the company can stand in getting new business? A. Yes, sir.

Q. Or have you made a special study of that? A. No, principally the actuary of the company.

Q. Well, he will be on the stand later. The matter I was on we may conclude by taking your opinion upon this point. That if it were possible for you to make a uniform rate to all those that would come to your office without the intervention of agents, and obtain insurance at a reduction commensurate with the decreased expense in obtaining their business you would not favor that policy? A. It would be entirely impracticable.

Q. Therefore you would not favor it? A. I would not favor it.

Q. Impracticable because it would take the business from the agents and demoralize your agency or organization? A.

*Testimony of Robert H. McCurdy*

And your business would absolutely shrink—I don't know what it would shrink to if you had no agents.

Q. If the business came in with such magnitude as to seriously compete with the agents it would not shrink very much, would it? A. Well, as a practicable matter it is not a possibility.

Q. And even C. H. Raymond & Co., with their very advantageous position objected to a few men that came in as it was? A. I don't know that they objected.

Q. I understood from Mr. Raymond that he did not like it? A. I did not hear his testimony.

Q. He rather criticized the man who was walking around in your office as a competitor of C. H. Raymond & Co.? A. Well,—

Q. Well, it would be antagonistic to the wishes of the agent, undoubtedly. Now, leaving that branch of the subject and going to another, to wit, the operations of your Finance Committee and the relations of the Mutual Life to other companies. You are a member ex-officio of the Finance Committee? A. Yes.

Q. Do you attend their meetings? A. I do.

Q. You are conversant with the financial operations of your Company? A. So far as my attendance at the Finance Committee meetings, yes, but I want to say, as I have said before, that my principal duty and my whole time and attention is devoted to the agency part of the business.

Q. Are you a stockholder in the Morristown Trust Co.? A. I am.

Q. To what extent? A. I own 171 shares, I believe.

Q. When I speak of the interest you may have in these companies in which the Mutual Life Insurance Company is interested, I do not mean to limit the question to what may happen to stand in your name, but to what you really own, whether it is in your

*Testimony of Robert H. McCurdy*

name or anybody else's name and in which you are the beneficial holder. Of course you understand. A. I may say that no stock in any Company stands in my name that I do not own.

Q. I mean stock that might stand in somebody else's name that you do own? A. Well, all the stock I own stands in my own name.

Q. Yes. What other persons connected with the Mutual Life Insurance Company as executive officers own stock in the Morristown Trust Company? A. I really don't know of my own knowledge. I am not a director in the Company, only a stockholder.

Q. You are not a director? A. No, I am not a director.

Q. Are you a stockholder in the Mutual Alliance Trust Company? A. I am not.

Q. In the National Bank of Commerce? A. I am.

Q. To what extent? A. I own a thousand shares.

Q. In the American Exchange National Bank? A. No, sir.

Q. In the Astor National Bank? A. Yes.

Q. To what extent? A. I own 75 shares.

Q. In the Bank of America? A. No, sir.

Q. Where you are a director of these companies, without my repeating the question, I would be glad to have you state it in connection with your answer. In the Brooklyn Trust Company? A. No.

Q. Central Trust Co.? A. No, sir.

Q. The Commercial Trust Co.? A. Yes, sir, I am a director.

Q. That is the Commercial Trust Co. of New Jersey? A. Yes, sir.

Q. What is your stock interest in that? A. 100 shares.

Q. The Consolidated Gas Company? A. I own some stock in the Consolidated Stock Co., 100 shares I think it is.

Q. The Continental Insurance Company? A. No.

Q. The Fifth Avenue Trust Company? A. No.

*Testimony of Robert H. McCurdy*

Q. The Fifth Avenue Trust Company? A. No, sir.

Q. The First National Bank? A. No.

Q. The Gallatin National Bank? A. No.

Q. The Girard Trust Co.? A. I own 25 shares, I think.

Q. The Guarantee Trust Company? A. 251 shares; I am not a director.

Q. The Industrial Trust Company? A. No.

Q. The Lawyers' Mortgage Company? A. No, sir.

Q. The Lawyers' Title Insurance & Trust Company? A. I own fifty shares, I think. I am not a director.

Q. The Morton Trust Co.? A. No.

Q. The Metropolitan Trust Co.? A. 100 shares and a director.

Q. The National Safe Deposit Co.? A. 50 shares, and a director.

Q. The Title Guaranty & Trust Co.? A. No, sir.

Q. The United States Mortgage & Trust Co.? A. 1,526 shares, not a director.

Q. The Bank of California? A. No, sir.

Q. The New York Dock Company? A. No, sir.

Q. Were you connected with the Brooklyn Wharf & Warehouse Company? A. Only as a purchaser of their bonds, some of their bonds.

Q. I mean you were not a director of that company? A. No, sir. I have here a list of companies in which I am a director, Mr. Hughes, if you would like it. (Handing paper.)

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit No. 264 and read by Mr. Hughes.)

Q. What is the Casualty Co. of America? A. The Casualty Co. of America is a casualty company which was organized some two or three years ago in which the Mutual Life has no stock or other interest.

*Testimony of Robert H. McCurdy*

Q. What is its business? A. Casualty insurance, employers' liability and plate glass and boilers and so on.

Q. Has the Mutual Life any relation to it in any way? A. None.

Q. What interest has the Mutual Life Insurance Company in the Windsor Trust Co.? A. None.

Q. It has been brought to our attention that the Windsor Trust Co. has recently established offices in the Mutual Life building? A. Yes.

Q. Is there no connection whatever between the companies? A. No.

Q. Does the Mutual Life maintain a deposit with the Windsor Trust Company? A. C. H. Raymond & Co., I believe, have a deposit from their uptown office, with the uptown office of the Company, I believe. The Company direct has no deposit.

Q. You are an officer of that Company? A. Honorary vice-president.

Q. What does that mean? A. Well, my duties are very light, as honorary vice-president.

Q. Well, I am not familiar with that title. I don't know just what it means. A. Well, Mr. Hughes, when the Company was organized about two years ago I was asked whether I would be a vice-president of the Company and I said I could not be an active vice-president. The other vice-presidents were Mr. John L. Van Young, who was the active man, and Mr. James A. Burden, Jr., and myself. We never had any duties and it is customary, I believe, for a financial institution to have vice-presidents whose names may be of some fancied value. I took no active part in the management of the Company, received no salary and attended committee meetings once a week, for which I got ten dollars a week. That was the extent of my connection with the Company.

*Testimony of Robert H. McCurdy*

Q. Is any other officer of the Mutual Life Insurance Company connected with the Windsor Trust Co.? A. None.

Q. I would like to ask you with regard to some of the syndicate participations—— Do you get any salary from any company that the Mutual Life Insurance Company is connected with, or has an interest in directly or indirectly? A. No salary from any company other than the Mutual Life.

Q. Perhaps in anticipation of my question you are prepared to say at once whether you have participated in any of the syndicates mentioned in this list furnished by your Company in which the Mutual Life Insurance Company was a participant? I refer to Exhibit 50 for identification? A. I may say without reference to this list, which I will look at in a moment, that to the best of my knowledge, I have never been a participant in any syndicate in which the Mutual Life was interested.

Q. Before you take up the list I have shown you, let me ask you to avoid any possible misunderstanding whether you have any income in any manner, that is, whether you receive any money in any manner from any of the companies whose names have been mentioned here with which the Mutual Life is connected, apart, of course, from dividends upon your stock interest? A. None other than the usual fee of ten dollars which is paid directors for attending meetings.

Q. Now, then, if you will take up the list Exhibit 50 for identification and tell me whether you have had any interest in any of the syndicates there mentioned?

(Witness examines list handed to him by Mr. Hughes.)

A. I have not.

Q. You are conversant with the securities which have been purchased by the Mutual Life in the last few years, I presume,



*Testimony of Robert H. McCurdy*

that is, you knew of their purchase when they were made? A. As reported by the Finance Committee, yes.

Q. Have you any participation in any syndicate in cases where the Mutual Life purchased any stocks or bonds from the syndicate managers? A. No, sir.

Q. Never have been a participant? A. Never have been.

Q. Among the companies in which the Mutual Life has an interest is the National Safe Deposit Co. How long has the Mutual Life been interested in that Company? A. The Company was formed when the extension of the building was built, about I should say, ten years ago. A Company was formed——

Q. Who formed it? A. I don't know who the stockholders are. The Mutual Life has a very small interest of stock in it, and the stock was subscribed to by various individuals. I don't know what the stock of the Company is—it is \$100,000.

Q. You are a director of that, are you not? A. Well, the business consists in renting boxes, not a very active business or interesting business.

Q. No, but you have—do you lease the vaults to that Company, does the Mutual Life lease them? A. The Mutual Life leases the vaults.

Q. I should like to have the lease produced, and if there is more than one, the leases, since the organization of that company

THE WITNESS: Mr. Preller, will you produce the lease of the Mutual Life Insurance Co. to the National Safe Deposit Co.?

MR. PRELLER: Yes, I will get it.

MR. HUGHES: The leases from the time of the organization of the National Safe Deposit Co. if there are more than one.

*Testimony of Robert H. McCurdy*

Q. You might state now, if you know, whether it is a flat rental or whether it gives the Mutual Life any interest in the income from the renting of boxes? A. No, sir; it is a flat—it is a tenant like any other. The Mutual Life owns a small amount of stock. I forget what it is. That is all.

Q. The New York Stock Company was referred to by me a moment ago and I believe you said you had some interest in the securities of that Company? Do you recall the organization of the Brooklyn Wharf & Warehouse Company? A. No, sir I did not.

Q. Did you have anything to do with it? A. No, sir.

Q. Did you or any officer of your Company receive any securities that were issued at that time? A. I cannot speak for any one else. I did not.

Q. How did the interest you had in the securities of the New York Stock Co. come to be obtained by you? A. I bought in the open market \$10,000 of the bonds, I believe, and then from time to time I increased those purchases, and I believe at one time I owned \$30,000 worth of the bonds which I bought in the open market.

Q. What officer of your Company has charge of its real estate operations? A. The By-Laws provide, I believe, that the care of real estate is in the treasurer's hands. Mr. Fonda, who is third vice-president, really devotes himself to the renting part—to the renting of the Company's buildings in New York.

Q. Has the Company from time to time acquired through foreclosure or otherwise a considerable amount of property in Brooklyn? A. I believe at one time they did have considerable property.

Q. How long ago? A. Well, it has not been since I was a trustee of the Company.

Q. By the way, when did you begin to serve as a trustee of the

*Testimony of Robert H. McCurdy*

Company? A. July, 1903, sir; when I was made general manager, two years ago.

Q. Was the acquisition of this property in Brooklyn before 1900, so far as you know? A. It was, so far as I know. It is something I know nothing about.

Q. Who would have charge of that real estate or be familiar with the transactions relating to it? A. The comptroller of the Company, Mr. Richards.

Q. Had that real estate been disposed of before you became a trustee of the Company? A. I believe it had.

Q. Do you know how it had been disposed of? A. I have not any knowledge of it, Mr. Hughes, no. It was before I ever attended a meeting of the finance committee or had any knowledge of it.

Q. What officer of your Company would have first-hand knowledge of the disposition that was made of the Brooklyn real estate? A. The comptroller of the Company, Mr. Richards, would know. He is the head of the real estate department.

Q. In connection with the general agency matters to which we referred a moment ago, what has come to your attention with regard to the practice of agents in offering rebates? A. The practice of rebating does exist, there is not any doubt about it, it does exist. But so far as I know, all the companies try to the best of their ability to have it discontinued. They are opposed to it, and in every agent's contract with the Mutual Life he is forbidden from rebating under penalty of dismissal. The rules and regulations—Mr. Dexter called my attention to the fact that the rules and regulations which are made part of the appointment of the agent and which he signs, No. 23, is as follows: Rebates on premiums in any manner whatsoever, either directly or indirectly, positively forbidden, and it will subject the offender to dismissal.

Q. What has come under your observation as to the granting of rebates in the Mutual Life business while you have been general

*Testimony of Robert H. McCurdy*

manager? Have you detected anything of the sort? A. Nothing of my own absolute knowledge, no.

Q. Have you ever dismissed any agent for rebating?

THE WITNESS: Mr. Dexter, have we?

MR. DEXTER: Yes.

Q. How many?

THE WITNESS: You will have to ask Mr. Dexter. He is superintendent of that branch.

MR. DEXTER: I should be unable to answer that definitely. It is of more or less frequent occurrence.

Q. How is this matter of rebating brought to your attention, how has it been brought to your attention, how do you discover it? A. If I could be excused from quoting the name of the company, or the name of the individual, if your will permit me to tell you an occurrence which happened on the 3d of October, three years ago, I should be glad to do so.

Q. Go on. A. May I be excused?

Q. Is it your own Company? A. It is not.

Q. Or your own agents? A. It is not.

Q. Well, state the facts. A. A gentleman who is insured in the Mutual Life Insurance Company for \$250,000 has paid four premiums; I know him from a slight acquaintance. He came in to see me on the 3d of October and said his premium in the Mutual Life was about due and that he had been offered—he had been told that if he would take \$250,000 in another company, mentioning the name, and drop ours, that it would not cost him anything the first year, and he came in to see what

*Testimony of Robert H. McCurdy*

we would do and what rebate we would make him on the payment of his fifth premium. I told him we would not make him any rebate, and I tried to show him how doing that sort of business, even if he got his insurance for nothing the first year, how in the end he was going to lose money and had better stay where he was, and he says "I will think about it" and went out.

Q. Are you through with that? A. That is the end of my story, sir, yes.

BY THE CHAIRMAN:

Q. That leaves me breathless with suspense. I do not see how that has anything to do with the dismissal of an agent for rebating? A. Mr. Hughes asked to what extent I knew of its existence and——

MR. BECK: The question was how it came to his knowledge that it existed.

Q. Is that the extent of your knowledge on the subject of rebating? A. It is commonly reported in the business.

Q. I would like to ask one question before we adjourn. What efforts do you make to ascertain whether or not rebating is going on among your agents? A. We distinctly forbid their doing so on pain of dismissal, but apart from that there is not anyway. It does not come to our knowledge.

Q. You make no active efforts to ascertain? A. I know of none, I know of no way of doing it.

BY MR. HUGHES:

Q. One more question, insamuch as the inquiry has gone to this extent now. What supervision do you have over C. H.

*Testimony of Robert H. McCurdy*

Raymond & Company's transactions and their relations to their sub-agents. Do you know what sub-agents they have? Do you exercise any control of C. H. Raymond & Company's agents?

A. Under this contract which I made with them, whereby the company was to rent branch offices not to exceed \$150,000, those agents have been appointed with the approval and with the assistance of Mr. Dexter, the superintendent of domestic agency department. There are other agents, their agents that they were employing under their general agency contract, the company has no direct dealings with them.

Q. So prior to this modification of the Raymond contract, which gave you the opportunity to establish branch offices, and with reference to the sub-agents appointed by Raymond & Company directly, you exercised no control over them? A. None.

Q. You do not know what they have, you neither employ them nor dismiss them A. No.

Q. You make no effort to ascertain whether they rebate or not? A. We do not.

Q. Your relations are entirely in such a case with Raymond & Company? A. Yes.

Q. And that is true generally in regard to the general agency system; you establish your relations with the general agent, and he looks after the agents? A. Under the general agency system, yes.

THE CHAIRMAN: The Committee will have a meeting immediately in the adjoining room. We will now take a recess until 2.15 P. M.

## AFTER RECESS.

Senator Armstrong in the Chair.

MR. HUGHES: While we are waiting for Mr. McCurdy I will ask Mr. Preller to take the stand.

CHARLES A. PRELLER, called as a witness, being duly sworn, testified as follows:

BY MR. HUGHES:

Q. Mr. Preller, you are the Auditor of the Mutual Life Insurance Company? A. Yes, sir.

Q. How long have you been auditor? A. Since July, 1893.

Q. What do you do as auditor? A. I have charge of the accounts of the company.

Q. Well, in taking charge of the accounts precisely what do you do. A. See that the charges are made to the proper accounts, and that I have authorized vouchers for the charges so made.

Q. You have vouchers, authorized vouchers, for all charges that are made? A. Yes, sir.

Q. You are responsible to the company for proper bookkeeping? A. Yes, sir.

Q. Have you the account here which will show the details of the expenditures that are grouped in the annual report of the company under the heading of advertising, printing, stationery and postage, and aggregating last year \$1,134,833.76? A. I have got a book that shows part of it.

*Testimony of Charles A. Preller*

Q. Will you produce the book, please? (Book produced by the witness.)

Q. What is this book which you now produce? A. This is a blotter of the bills that passed through the authorization of the Committee on Expenditures.

Q. Is that the book of original entry? A. Yes, sir.

Q. In what books are postings made from that? A. Into the cash book journal and ledger.

Q. These expenses are entered in the blotter that you now have chronologically as they occur? A. Yes, sir.

Q. And then they are distributed among the accounts to which they belong? A. No. This is a tabulated record here.

Q. You mean that the accounts are classified in the blotter? A. Yes, sir.

Q. Will you turn, please, to the account which shows part of the item which I have mentioned, that is, the advertising, printing, stationery, and postage? A. Well, I might say, Mr. Hughes, that this is a weekly record. The Committee on Expenditures holds a meeting once a week and passes on the bills and this is added as shown each week.

Q. Now how many accounts are there which enter into this item in your published report of advertising, printing, stationery and postage? A. Well, there is an advertising account; there is a printing account and there is a postage and telegrams account.

Q. Any other account? A. Will you repeat your question?

Q. What accounts are there which embrace items which go to make up this total in your published report of \$1,134,833.76?

A. Well, those three accounts, advertising, printing and stationery is one account.

Q. Now, what was the amount expended for advertising in 1904? A. Well, have you got the—well, I will have to get that from the general ledger. I didn't know you wanted that amount; I thought you had it here.



*Testimony of Charles A. Preller*

Q. Have you got the general ledger here? A. No, sir, but I can get it. I can send for it right away.

Q. Will the general ledger show all the accounts for 1904? A. Yes, sir.

Q. Is there one volume of the general ledger for 1904 showing the accounts? A. Yes, sir.

Q. And you have the blotter for 1904? A. This is the blotter for 1904.

Q. And that shows all the original entries of the items posted in the general ledger? A. All that passed through the Committee on Expenditures.

Q. What other items would there be? A. Items that come through the accounts of the branch offices and general agents.

Q. But the home office accounts are all embraced in this blotter? A. Everything that is paid in the home office.

Q. If you will send for that general ledger of 1904, I will be glad to have it.

THE CHAIRMAN: I understand, Mr. Hughes, that this book contains only weekly summaries.

Q. Is that so? A. Yes.

Q. In putting down the weekly summaries do you put down the items of which they are composed? A. Oh, yes.

Q. In other words, if I want to know if a thousand dollars has been disbursed for advertising say on March 31st, 1904, will that book show it? A. Yes, sir.

Q. And to whom it was paid? A. Yes, sir.

Q. And all the details. So the weekly summarization of it is merely a summary of items appearing in the book itself? A. That is all.

Q. If you will send for the general ledger so that we can have it down here. To what account is the item of \$364,254.95 stated

*Testimony of Charles A. Preller*

in your report for 1904 to have been expended for legal expenses charged? A. Legal expenses.

Q. Does that include moneys paid to lawyers in other States? A. Yes, sir.

Q. How many lawyers in the States were paid by your Company in the year 1904? A. I don't know.

Q. Well, you know who were paid, do you not? You audited the vouchers. A. I cannot answer that. The general solicitor can tell you that.

Q. Then you make all payments to the general solicitor for legal expenses. Well, has anybody received under any retainer from the Mutual Life directly moneys during the year 1904, except the general solicitor? A. I don't know.

Q. Well, it is a matter that would come under your supervision, would it not? A. Well, Mr. Hughes, let me say that all I had to do with these matters is to take the vouchers that are given me properly O.K.'d and have them charged up to the accounts to which they belong.

Q. Exactly. A. I don't know anything further than that.

Q. Well, I shouldn't think you would need to know more than that to tell me what lawyers have been paid? A. Well, I can't answer that question. Any lawyer whose voucher is given me properly O.K.'d.

Q. You mean you don't remember that? A. No, sir.

Q. You did know, of course, at one time, as you O.K.'d or passed upon the voucher or checked the voucher? A. I charged them up as they were given me for that purpose.

Q. Now, was there any lawyer or firm of lawyers, in 1904, that to your recollection was paid by the Mutual Life other than the general solicitor? A. For legal services?

Q. For anything? A. Well, of course, whatever bills were sent to me to put before the committee were.

*Testimony of Charles A. Preller*

Q. Well, who were they so far as you can recall them? A. I can't recall them.

Q. Cannot recall any of them? A. Not without reference to the vouchers themselves.

Q. Are there any lawyers under annual retainers by the Mutual Life? A. I don't know, sir.

Q. What? A. I do not know.

Q. Are there any lawyers who are paid yearly a certain sum of money by the Mutual Life?

MR. BECK: Do you mean outside of the regular Legal Department?

MR. HUGHES: I mean by check which this auditor sees, or the voucher which comes under his observation?

A. Well, I can recall one.

Q. Who is he? A. Mr. Charles E. Miller.

Q. Yes, in what connection? A. In connection with what, sir?

Q. Why, with suits, legal services? A. As far as I know.

Q. Now, just turn, if you will, to the legal expense account in this blotter that you have here? A. For what purpose?

Q. For what purpose? A. Yes, sir.

Q. So that we can see what is in it. A. Oh.

Q. Have you got it before you? A. Yes, sir.

Q. Is it there at this page? A. Do you mean—if you will explain what you mean, Mr. Hughes, I will turn to it.

Q. I mean to ask you to turn to the particular page of the blotter which will show entries charged to legal expenses? A. Why, they are all through the books.

Q. Are the items not grouped under headings here and classified? A. Yes, sir; but I explained a few moments ago that they

*Testimony of Charles A. Preller*

were tabulated and made up weekly. If you will look around here I can show it to you. See, they are tabulated.

Q. Though you would have to wait for the ledger—— A. To see the total amount.

Q. To get the total amount, and the various items in the ledger, could be traced back to this book? A. Yes, sir.

Q. I see. So they are not grouped in this book except by weekly tabulations and the items are stated, is that it? A. The items are stated weekly.

Q. Now, for example, I find here under date of February 17th, 1904, \$1,595.15 Law. A. Yes, sir.

Q. Those items will appear—— A. There (witness indicating in book).

Q. Mr. Preller, referring to the entries in the book under date of January 13th, 1904, appears an entry under law expenses of W. A. Fricke, \$5,000. Who is he? A. I don't know, sir. I can't say. I can't answer these questions offhand.

Q. Well, what State is he in? A. I don't know that.

Q. Is he in Wisconsin? A. I don't know, sir.

Q. Don't know anything about it? A. As I explained before, Mr. Hughes, these vouchers simply come to me, and I enter them up, as they come fully O.K.'d.

Q. Who is W. J. Holden? A. I don't know, sir.

Q. I see an entry January 27th, 1904, of \$1,000. Who is James F. Pierce? A. James F. Pierce, well, he is a lawyer, or was.

Q. Well, what was this payment for that I find under date of January 27th, 1904? A. I don't recall without referring to the——

Q. I find under date of January 30th, 1904, an entry under the head of law expenses, Robert Olyphant, Chairman, \$25,000. What was that for? A. I don't know, sir.

Q. Why should that be paid to Robert Olyphant, Chairman?

*Testimony of Charles A. Preller*

What was he Chairman of? A. Chairman of the Committee on Expenditures.

Q. For what reason should there be a payment to the Chairman of the Committee on Expenditures of \$25,000? A. I don't know, sir.

Q. Do the vouchers that you received show anything more in the case of legal services than that they are for legal services? A. Show any more?

Q. Anything further than the general fact that the service was a legal service? Does it show the character of the service, the nature of the matter in which the service was rendered? A. In most cases they do.

Q. Now, when you make a payment of \$25,000, to Robert Olyphant, Chairman, what kind of a voucher do you get? A. I get a voucher signed by Mr. Olyphant as Chairman of the Committee.

Q. Showing what? A. Showing that he has had that amount of money given to him for purposes which I don't know.

Q. Does the Committee on Expenditures keep any minutes of its proceedings? A. Yes, sir.

Q. Who keeps those minutes? A. I do.

Q. You do? A. Yes, sir.

Q. Well, was this matter of the payment of \$25,000 to the Chairman before that Committee? A. Yes, sir.

Q. Will you send, please, for the book containing the minutes of the Committee on Expenditures? Can we have that brought down? Well, do you recall what was brought up in the meeting with reference to that? A. No, sir.

Q. Not the slightest idea what that was for? A. No, sir.

Q. I find under date of August 31st, 1904, another entry, Robert Olyphant, \$25,000, without the addition of "chairman." Do you know what that was for? A. No, sir.

Q. Was there any voucher for that other than the fact that

*Testimony of Charles A. Preller*

Robert Olyphant got that amount of money for something you did not know anything about? A. The same voucher—I had a voucher in both cases passed before the Committee.

BY THE CHAIRMAN:

Witness, I suppose you mean that your duties to this Committee are purely clerical and you enter what transpires in the Committee in purely a clerical capacity without exercising any discretion or judgment about it? A. Yes, sir.

BY MR. HUGHES:

Q. I find another item under date of November 9th, 1904, Robert Olyphant, Chairman, \$250,000. Do you make the same answer as to that as to the other items? A. Yes, sir.

Q. Now, are all the legal expenses which aggregate in your published statement \$364,254.95 entered in this blotter under the head of Law? A. No, sir.

Q. Where are the other legal expenses that enter into the item in your report that you included here? A. They are taken from the report of the foreign department and from the report of the domestic agencies.

Q. We had a reference yesterday to a sum of \$2,500 that had been paid out in a political contribution. Where is that entered? A. What was that?

Q. A payment to the Congressional Committee? A. I don't know.

Q. Do you know of the payment? A. No, sir.

Q. Well, do you mean by that that it never came under your attention, a payment to Chairman Babcock of the Congressional Committee? A. Yes.

Q. Then it never come under your attention? A. No.

*Testimony of Charles A. Preller*

Q. Never heard of it? A. Never heard of it.

Q. Well, how do you book matters which are disbursed by executive officers on executive order? A. Through the medium of that book there.

Q. Is there any special account kept of those? A. They are charged to one or other of the accounts which are tabulated as the heading shows.

Q. Have you a tabulation at the end of the year of these various accounts aggregating the monthly totals or weekly totals?

A. A tabulation—those accounts are posted into the cash book, and from the cash book into the journal and from the journal into the ledger. which will show the total of each month.

Q. Now you or someone in your Company knows whether \$2,500 was booked, and I would like your Company to produce him. If you are not the man who can state, I want the Company to have someone who can state it brought here? A. Was it Mr. Thummel who made the statement?

Q. Yes. A. He must know.

Q. No; he says he does not know how it was booked? A. There is no date given. I could not tell now.

Q. I think you have ways of getting information which will enable you to inform us on that point, and I shall expect your Company to do it. The fact is that the payment was made, and I want to know how it was booked.

(At this point a book was produced by a representative of the Company.)

Q. Now is there an other account to which charges are made for payments to an officer of the Company other than payments to Mr. Olyphant? A. No, sir.

Q. That is, I mean that are under this head? A. No, .

Q. Are there any accounts to which payments are charged for

*Testimony of Charles A. Preller*

other than legal expenses when payments are made to Mr. Olyphant? A. Not that I recall now.

Q. Do the salaries appear in this book? A. Yes.

Q. Whereabouts? A. Here. (Witness indicates.)

Q. You point to an item of salaries for 1904 aggregating \$1,002,720.10. How are the salaries of the executive officers paid, in what installments? A. Paid by the cashier.

Q. In what installments, monthly or quarterly or semi-annually? A. As far as I know, semi-monthly.

Q. Semi-monthly? A. Yes.

Q. Do they appear in this blotter? A. Yes.

Q. Will you show me, please, the months—take December 1904.

(Witness indicates.) A. There are not items in this book at all.

Q. There are no items in this book relating to salaries? A. No.

Q. They are kept by the cashier? A. Yes.

Q. How does he keep them? A. You will have to ask him that. I don't know. He has got his own records, is all I know.

Q. Do you mean in payrolls? A. Yes.

Q. And these payrolls are made up monthly? A. Semi-monthly.

Q. You think that the president's salary is paid semi-monthly? A. I don't know, sir.

MR. HUGHES: What is the fact as to that? Please send for the payroll of December, 1904, and we will see if we can get the facts about, and if that does not show what the salaries are——

MR. BECK: Do you want merely the salaries of the executive officers?

MR. HUGHES: Yes.



*Testimony of Charles A. Preller*

MR. BECK: You asked me to produce it, and I did. (Producing paper.)

MR. HUGHES: I offer that in evidence.

(Paper marked Exhibit 264. Exhibit 264 will be found in the book of exhibits.)

MR. HUGHES; This sheet gives the salaries of the president, two vice-presidents, second vice-president, third vice-president, general manager and treasurer from 1877 to 1905 as follows. President's salary—I will read the columns as they appear here, giving the salaries of all the officers named who received salaries during the years mentioned. (Exhibit read.)

Q. Now, have you the minutes of the Finance Committee which show the provisons for the salaries? I should like to have those minutes produced of the Finance Committee or other committee that fixes the salaries that are mentioned here. Now, there are produced the minutes of the Executive Committee. These are the minutes to which you referred a moment ago as kept by you? A. Yes, sir.

Q. These minutes simply show that salaries amounting to sums stated were approved? A. Yes.

Q. Then the amounts are given in aggregates with reference to the particular title to which they relate? A. Yes, sir.

Q. Those are all the minutes that are kept? A. Those are all.

Q. For example, one on January 30th, 1904, Robert Olyphant Chairman was paid \$25,000. That was charged to the legal expense account. That item with other items aggregating \$107, appear in the minutes of the Expenditures Committee simply as "Law \$25,107." A. Correct, sir.

Q. And all you had to do with it was simply to register the

*Testimony of Charles A. Preller*

amounts that were stated at the meetings and to perform the services of seeing that those amounts were properly entered in the books? A. That is all, sir.

Q. You had nothing to do and didn't know anything about the purposes? A. No, sir.

Q. And of course were in no position to either approve or disapprove of the payment? A. No, sir.

Q. So there is nothing in the minutes of the expenditures committee which would at any time show what any particular payment was for except as the heading of the account to which it is charged is stated? A. That is all.

MR. HUGHES: That is all for the present, Mr. Preller.

BY MR. ROGERS:

Q. Mr. Preller, your position is that of auditor? A. Yes, sir.

Q. Is that the title of your position? A. Yes, sir.

Q. How long have you held it? A. Since 1893.

Q. And you were with the Company prior to that? A. Yes, sir.

Q. What is your present salary? A. \$10,000.

Q. And you have drawn that for how long? A. I think since 1889.

BY MR. HUGHES:

Q. Just before you leave the stand tell me whether these are the original minutes kept by you, or whether there were any other minutes at any time of these meetings kept by you? A. These are the minutes that are kept.

Q. Those are the only minutes that you have ever had? A. Those are the only minutes of any of those meetings.

*Testimony of Robert H. McCurdy*

Q. That you have ever had? A. That are shown here. This is only for the year, you know.

Q. Oh, I understand that.

MR. HUGHES: Mr. McCurdy, will you resume the stand, please.

ROBERT H. MCCURDY, recalled, testifies as follows:

THE WITNESS: Here are the leases you asked for, Mr. Hughes.

MR. BECK: Mr. Chairman, while Mr. Hughes is looking for his next question, in connection with these increases of salaries wouldn't it be fair to note upon the record that the witness can testify the size of this corporation, as measured by its cumulative assets has grown not only four-fold, but possibly as much—well, I won't venture the percentage—but I think if the witness is permitted to say what the accumulated assets were in 1877 and what they are now that might explain why the salaries have grown.

MR. HUGHES: Certainly, if Mr. McCurdy would like to make a statement as to that I should be glad to have him to so

THE WITNESS: Well, I don't think I can give the exact amount of the assets in 1877. They were about—Mr. Preller, do you know what they were in 1877?

MR. HUGHES: Well, we have a statement here.

MR. BECK: A little over forty millions.

*Testimony of Robert H. McCurdy*

THE WITNESS: A little over forty millions.

[ MR. BECK: And what are they now, \$450,000,000?

THE WITNESS: \$450,000,000.

MR. BECK: I was about to say they had grown ten-fold. I wasn't sure of the percentage.

MR. ROGERS: I would like to ask in that connection if the resulting benefits to the individual policy-holders have grown in like manner?

(Laughter and applause from the audience.)

THE CHAIRMAN: Now, there must be no such demonstration during this examination. The approval or disapproval of the audience is not of the slightest use to the Committee.

MR. ROGERS: I asked the question very seriously, because the relation of the Company to the individual policy-holder in each specific instance is, after all, a very vital problem to this Committee, and the great accumulation of assets, unless there is to some extent an accumulation of benefits to the policy-holders, is of slight consequence.

MR. BECK: Well, it has already been testified, if I may be pardoned for answering the question, that none of the twenty-year endowments have yet matured, therefore, it is not to be determined.

MR. ROGERS: I grant you on that.

*Testimony of Robert H. McCurdy*

MR. BECK: Therefore it is obvious that the growth of this great corporation in the vast number of its policy-holders cannot be measured by the mere question of the contribution of any single member. In other words, his proportionate profits must bear some relation to that which he puts in. The two things are not in analogy, at least it seems to me so, and I submit it respectfully.

BY MR. HUGHES:

Q. Well, as I understand it is seriously contended, Mr. McCurdy, that the salaries of the executive officers should increase in proportion to the accumulation of the assets of the Company?

A. I don't know that the policy has ever been defined in that way, but it would certainly seem reasonable.

Q. In other words, the Mutual Life is constantly increasing its assets, is it not? A. It is.

Q. Have you any limit in your mind at which the salaries should stop? A. I have never—I didn't know until—as I have testified I didn't know what the salaries were.

Q. Well, in view of that, I would not have asked you the question if it had not been suggested that you could furnish some explanation in regard to the policy of the Company in regard to increasing salaries, and it was suggested that the accumulation of the Company were increasing so rapidly as to justify the increase of salaries. Now, if the Company goes on growing, do you think it would be proper in course of time to increase the President's salary to \$250,000? Have you any idea in your mind that it should be increased further as the accumulations increase? A. I have never formulated any idea in my mind as to that subject.

Q. Nor have you formulated any idea as to why the salary should be increased to \$150,000 because of any increase in accumulations, have you? A. Only that I think the payment of

*Testimony of Robert H. McCurdy*

salaries—the amount of salaries paid in all corporations bears some relation to the size of the corporation and the importance of the duties fulfilled?

Q. Yes. Anything further than that ? A. Only that it is a fact that small corporations pay small salaries.

Q. Of course, in an ordinary business enterprise conducted for the gain of the individuals who contribute to the capital, the amount to be paid for management is generally considered with reference to the amount of profit made for those individuals, is it not? A. I don't know that it is, sir.

Q. Yes. In other words, as a mutual company your Company is composed of policyholders, and whether or not salaries should be increased depends entirely on whether it is profitable to the policyholders to have them increased, is not that so? A. Not entirely. I think that the responsibility and the duties that are imposed by the presidency or the vice-presidency of a corporation of the size of the Mutual Life, the amount of the salary ought to bear some relation to the size of the corporation and the responsibilities of the office.

Q. Your Board of Directors is supposed to represent the policyholders? A. Yes.

Q. And in voting for salaries to represent the wishes of the policyholders and not the wishes of the executive officers, so far as their personal interests is concerned, and in increasing salaries you understand that it is your obligation to have sole regard to the interests of the policyholders do you not? A. Yes.

Q. Now, do I understand that there has been any interest of the policyholders in increasing the president's salary from \$100,000 to \$150,000, if so, what? A. Only, I think as a proper compensation for increased responsibility.

Q. You think the responsibility increased in 1900? A. The trustees evidently did, sir.

*Testimony of Robert H. McCurdy*

Q. Well, did the trustees fix this salary? A. They did, sir, I presume. I say I didn't know of its existence.

Q. Has it ever been brought before the Board of Trustees so far as you know? A. I couldn't say.

Q. Never brought before the Board of Trustees at any meeting that you attended? A. I think it antedated 1903, did it not?

Q. Yes, but it must be an annual agreement. A. I haven't any recollection of it.

Q. And I think you said this morning that so far as you knew none of the directors or trustees knew what the salaries were except the president and perhaps the members of the Finance Committee back at the time at which it was originally fixed. A. I think I said the officers and employees of the Company. I don't know what the trustees knew.

Q. Now, you have produced here certain leases to the National Safe Deposit Company. What space is occupied in the property of the Mutual Life Insurance Company by the National Safe Deposit Company? A. It occupies the basement of the—one-half of the basement of the Liberty street addition, No. 32 Liberty Street.

Q. Do you know what the square feet may be? A. I do not, sir.

Q. Who bore the expense of fitting up the property for the safe deposit uses? A. I don't know, sir. I don't know anything about the real-estate care or management of the business. It all comes under the third vice-president or the treasurer.

MR. HUGHES: We will note upon the record the leases that are produced. The first, which we will mark for identification, is dated May 1st, 1894.

(Marked Exhibit No. 265 for identification.)

MR. HUGHES: It is a lease by the Mutual Life Insurance

*Testimony of Robert H. McCurdy*

Company to the National Safe Deposit Company of the basement in 32 Liberty Street to be used as offices and safe deposit vaults and storage vaults in the cellar for a term of ten years, to commence May 1st, 1894, at a yearly rental as follows: First year, \$8,500; second year, \$9,000; third year, \$10,000; fourth year, \$12,000; fifth year, \$14,000; sixth year, \$16,000; seventh year, \$18,000; eighth year, \$18,000; ninth year, \$19,000; tenth year, \$20,000.

The party of the first part agrees to supply steam-warming apparatus, to cause the premises to be cleaned and generally cared for by the janitor without extra charge, and also to furnish throughout the year a reasonable amount of gas or electricity for lighting said premises.

Also, a further agreement, or lease which will be marked for identification.

(Marked Exhibit No. 266 for identification.)

MR. HUGHES: Dated February 4th, 1897, reciting the lease above mentioned and the desire of the party of the second part to have the same modified and reciting that whereas under the terms of the lease the party of the second part is paying ten thousand dollars at that time for the said premises, it is agreed that the rent for the fourth year and thereafter shall be the same as the rent for the current year, to wit—\$10,000 per annum, instead of the rate fixed in the contract, provided that the party of the first part reserves the right on or before the first day of February, May, August or November, in any year during the remainder of said time, to notify the party of the second part, beginning with the next quarter-day the rent will be at the rate reserved in the said contract, or a less rate, and the party of the second part agrees upon receiving such notification to pay the rent as so notified.



*Testimony of Robert H. McCurdy*

Also a further agreement of lease dated March 2nd, 1904, which we will mark for identification.

(Marked Exhibit 267 for identification.)

MR. HUGHES: Leases office and safe deposit and storage vaults in cellar and basement in the ground story of the building of the Mutual Life Insurance Company of New York, situate in the plot bounded by Nassau, Cedar, Liberty and William Streets, and particularly known as Nos. 26 to 32 Liberty Street, for five years, commencing May 1st, 1904, and ending May 1st, 1909, at a yearly rental of \$14,500.00.

Q. Do you know what dividends are paid by the National Safe Deposit Company? A. Four per cent. a year; two per cent. semi-annually, I believe, sir.

Q. Is the National Safe Deposit Company bonded, or has it any mortgage debt of any kind? A. No, sir.

Q. Now, you were asked to produce the contracts with Chamberlain and Gillette of Texas.

MR. HUGHES: The contracts are produced and they are as follows: To save accumulation of matter upon the record unnecessarily, I will read in each case a synopsis of the contract, but if I omit anything which should be stated in order to make the statement fair and complete, I would like to have my attention called to it.

New York, November 16th, 1904.

Edwin Chamberlain, General Agent.

Scale of compensation for 1895.

Class A., Ordinary life, continuous premiums including policies issued in 1893 as semi-centennial as follows:

*Testimony of Robert H. McCurdy*

20 year distribution, 50 per cent. first year, 15 per cent. second year,  $7\frac{1}{2}$  per cent. for five years thereafter.

15 year distribution, 45 per cent and same renewals.

10 year distributions, 40 per cent. and same renewals.

5 year distribution, 35 per cent. and same renewals.

Class B. Endowment policies, continuous premiums.

20 year distribution, 40 per cent., same renewals.

15 year distributions, 35 per cent., same renewals.

10 year distributions, 30 per cent., same renewals.

5 years distribution, 25 per cent., same renewals.

Class C., limited payments distribution policy, ten or more payments, life or endowments,

20 year distribution, 35 per cent., same renewals

15 year distribution, 30 per cent., same renewals.

10 year distribution, 25 per cent., same renewals.

5 year distribution, 20 per cent., same renewals.

Class D, Single premium policies.

Life policies, 10 per cent., Endowment  $7\frac{1}{2}$  per cent. Annuities of all kinds 5 per cent. Mortuary allotments and contingent additions 5 per cent., annual distributions and all other forms of policies, not provided for, 35 per cent. flat. Without renewals that is.

Q. Now these amounts that have been read are the same as those that appear in the printed form of the Company except in the case of Class A, where the first year's commission was the same but the printed form provides for renewals of six per cent. for six years and the amount of renewals allowed on business in Class A is 15 per cent. for the second year and  $7\frac{1}{2}$  per cent. for five years thereafter, and the same rate for renewals, I see, is also given by a modification of the printed form in Class B and Class C.

The quotas and bonuses are stated as follows:

*Testimony of George T. Dexter*

First quota \$1,100,000. After this amount in all classes of business, except B and E, is established you will be entitled to a bonus of \$1.50 per one thousand established in excess thereof.

Second quota \$1,800,000. After this amount shall have been established you will be entitled to charge \$1.00 additional per thousand for all business except D. and E established in excess of said second quota.

Third quota \$2,530,000. After this amount shall have been established you will be entitled to charge \$1.50 additional for each one thousand dollars upon all business except D and E established in excess of said third quota.

Fourth quota \$3,300,000. After this amount shall have been established you will be entitled to charge \$1.00 per thousand upon all business except D and E established in excess of said fourth quota.

GEORGE T. DEXTER, called as a witness being duly sworn, testified as follows:

BY MR. HUGHES:

Q. You are the superintendent of domestic agencies of the Mutual Life Insurance Company? A. I am.

Q. How long have you been such? A. Six years and a half.

Q. Then you are not conversant with the circumstances under which this original contract of 1895 was entered into? A. It was previous to my connection with the company, direct.

MR. HUGHES: Annexed to this contract are the following memoranda: "As directed by president, General Agent, Edwin Chamberlain has been allowed \$1,500 per month from June to December inclusive, 6,000 in all." That is dated May 28th, 1895.

*Testimony of George T. Dexter*

“Auditors, allow the Texas agency \$2,600 for advertising and other expenses. April 9th, 1895, W. R. G.”

October 8th, 1895, a letter addressed by the superintendent to the auditor “The Allowance to Messrs. Edwin Chamberlain & Company of \$1,500 per month is hereby continued for the balance of the year, comprising the months of October, November and December. We have further authorized them to charge in their December account \$7,500 paid for furnishing the Company with \$6,000,000 full paid insurance, 1895 issues in the accounts of 1895.”

The next contract produced is dated November 9th, 1895, that is with Edwin Chamberlain for the year 1896. The contract is upon the printed form without changes upon the face thereof so far as the rate of commission is concerned, being for ordinary life, joint life and endowment policies, calling for ten or more premiums. The first year's twenty year distribution 70 per cent. First year fifteen year distribution 60 per cent, ten year distribution 50 per cent, five year distribution 40 per cent, with four renewals of 10 per cent. and three of five per cent

Annexed to this is a memorandum or letter written by John C. Elliott, superintendent of domestic agencies to C. A. Preller, auditor, dated February 8th, 1896: Dear Sir: Edwin Chamberlain, General Agents, bonus quotas have been changed so as to read: First quota \$460,000, second quota \$625,000, third quota \$1,000,000, fourth quota \$2,115,000.

He has also been authorized to charge 5 per cent. overriding commission on twenty, fifteen and ten year distribution policies in the accounts of 1896.

Q. That means a special rate over the ordinary amount allowed? A. It does, sir.

Q. Also until further notice Edwin Chamberlain is allowed as a special allowance \$200 a month for L. J. Wortham, legal

*Testimony of George T. Dexter*

services. That means that was to be a credit to the agency of that amount which they would not have to pay out of their commissions? A. It was.

Q. Also a note under date of March 7th, 1896, the following: Please note the following allowance to the San Antonio general agency for 1896 at the rate of \$8,000 per annum for office expenses, at the rate of \$3,000 per annum for advertising, at the rate of \$9,000 per annum for agency expenses. That means that those allowances were made to the extent stated by the company so that those amounts would not have to be paid out of the commissions of the San Antonio agency? A. That is true. It was also allowed to some other agents at the same time and under similar circumstances. The allowance was not specially to that agency. May I state the reason for that?

Q. Certainly, if you are acquainted with it. A. The great expense of doing business, the high cost of railroad transportation, and hotel expenses are rather high, the great distances and the general greater expenses than in a more compact and smaller territory, some allowances were necessary.

Q. When did your connection with the department begin? A. In December, 1898.

Q. Now, it seems to have been the practice for some years in dealing with Chamberlain or Chamberlain & Gillette—— How long have Chamberlain & Gillette been the agents there? A. At least twelve years.

Q. Then while the contract was for a time in the name of Edwin Chamberlain it was really held by the firm? A. It was not. Mr. Gillette went there at a later period, perhaps eight years ago, that is, roughly speaking, and the intention and expectation was to divide the field and each should have half of it. The arrangement was made for a partnership and the whole field remained under the new firm name without change.

Q. What was the new firm name? A. Chamberlain & Gil-

*Testimony of George T. Dexter*

lette. I am not sure that that name was taken when the partnership was entered into. It was Edwin Chamberlain & Company for some years, I think

Q. Did Mr. Gillette go there under a guarantee? A. I could not answer that. It was before my time.

Q. I find a reference in 1897 in a letter attached to the contract under date of January 1st, 1897, "Mr. D. G. Gillette's guarantee for 1897 will remain the same as in 1896, and against same he is to return all the profits of the business." A. Yes.

Q. Do you know what guarantee that was? A. I do not know the amount of it.

Q. Then in a letter of February 7th, 1898, I find, "Mr. Daniel G. Gillette guarantee for 1898 will be the same as last year."

A. I have an indistinct recollection that that guarantee was \$5,000 a year.

Q. Apparently from this it appears that Chamberlain & Gillette had the ordinary agents contract. A. They did.

Q. And then an overriding commission of five per cent. A. That is true.

Q. And that has continued right along? A. It has.

Q. Then in addition to that it would appear that they have received certain allowance for expenses? A. Yes, sir.

Q. Can you state whether or not an overriding commission has since been allowed to other general agents? A. It has.

Q. To what extent have Chamberlain & Gillette been favored in the giving of commissions? A. In 1898 there were five general agencies that had an overwriting commission. Three of them, notably, the St. Louis General Agency, had an overwriting commission of ten per cent., and two others that I don't remember who they were. I am quite sure there were five. Chamberlain & Gillette had an overwriting commission of five per cent., which, as you stated, has been discontinued at this time. I

*Testimony of George T. Dexter*

would say they were not paid—the cost of doing business was so much in excess of the New England and the Middle West that they labored at a disadvantage.

Q. Without referring to the disadvantage and the extra cost of labor, but merely to get at the facts whether they had a larger rate of commissions, was Mr. McCurdy right in his statement this morning, as I understood him, that they did have a larger rate? A. They did. They have the five per cent. as you have demonstrated.

Q. And that five per cent. is upon what? A. Upon the first year premium, class A business.

Q. Have they any advantage in renewal commissions, I mean by advantage, any higher rate than other agents get aside, of course, from Raymond & Company? A. May I look at the last contract?

Q. Yes. (Handing paper). A. They have no advantage, the renewals are the same.

Q. Have they any advantage in bonuses? A. Absolutely none.

Q. Or in the amount of quotas? A. None

Q. Or in the amount of allowances for expenses? A. They have a larger allowance.

Q. What was the total amount allowed in 1904 for Chamberlain & Gillette? A. \$10,000 as I remember it.

Q. A little more than that, was it not? A. Yes, that is true.

Q. How much? A. \$15,840.

Q. What are the profits of Chambelain & Gillette net? A. I had a trial balance about four years ago which showed their profits, approximately, \$30,000. At that time, having done business together—that was from the beginning of their partnership as I remember it, six years, they were still in debt. They had taken out their living and necessary expenses, and had borrowed money from the United States Mortgage & Trust Company, a

*Testimony of George T. Dexter*

small amount. And their profits for that year were \$30,000. I think they have increased. I could not state definitely, but they were approximately net \$40,000 at this time. That is, for the labor of two men.

Q. We had a question up this morning as to the contract with C. H. Raymond & Company. Have you been familiar with the amount of money which they were making? A. I have not.

Q. What Mr. McCurdy said in regard to that would apply to you as well, you did not know what the results of their business were? A. I do not. I did not hear Mr. McCurdy's testimony, but I do not know.

Q. You said you had a trial balance from Chamberlain & Gillette? A. Yes.

Q. How did you happen to get that? A. It was submitted to me voluntarily. There was a question at the time of the continuation of the partnership and the adjustment of the Chamberlain & Gillette Company's affairs, and it was submitted as a matter for council and advice, and the partnership did, however, continue, and nothing was done in the matter.

BY MR. ROGERS:

Q. You say it was submitted voluntarily. A. Yes.

Q. You do not mean to say, however, that you had not the right to demand it? A. We have a right to demand it, yes.

Q. And is it not your policy—I ask it in all seriousness, and with some surprise, that it is a fact—is it not your policy to ascertain at fixed periods, say at the end of every year, the profits, gross and net, that your agents throughout the country are making? A. That has not been the policy each year. On two occasions in the last six years an investigation of that kind has been made.

Q. Now, I ask this also in good faith, and yet because I cannot



*Testimony of George T. Dexter*

furnish a satisfactory answer to myself, why have not you regarded a duty which you owed to the policyholders to ascertain those facts? A. The theory was that they were not making an excessive amount of money. Their statement generally was accepted. The statement was generally that there was not a considerable profit in the business.

Q. I had supposed that the cost of insurance was a subject of the closest scrutiny in all its phases and that it was conducted not upon a theory, but upon a positive knowledge. A. That is strictly true, and when the positive knowledge was acquired steps were taken to change the system of conducting the agencies and save the profits that had heretofore gone to the agency, to the company and to the policyholders. That was the result of the investigation to which I referred some six years ago.

BY MR. HUGHES:

Q. Was the question ever brought before you as superintendent of domestic agencies, as to the amount of money that C. H. Raymond & Company were making, was it ever discussed? A. It was discussed, yes.

Q. With whom was it discussed? A. No one in authority. With the minor officials of the company, perhaps.

Q. With whom? A. As a matter of curiosity, perhaps, with the auditor.

Q. The auditor did not seem to be in a position to take a very vital interest in the company? A. That is strictly true, and it was, perhaps, curiosity on his part to ascertain if I knew the profits, which I did not. That was the nature of the conversation whenever it occurred.

Q. What are your duties? A. A general supervision of the company's agencies in the United States and Canada.

Q. What comes under the head of that supervision? A. The

*Testimony of George T. Dexter*

appointment, and perhaps the removal of managing agencies under the direction of the executive officers, primarily the general manager; the establishing and building of agencies in the different parts of the country, such as employing the cashier and necessary clerical force, looking after the rent and selection of the location of the offices. The executive officers determined the quotas, and amount of business they want for the year, or require, and it is my business to get it, sir.

Q. Did you have any consultation with anyone as to the terms of C. H. Raymond & Company's contract which was made in 1903? A. I did not.

Q. Was that made without asking your advice? A. I was out of the city on a business trip to the West at the time it was made. It was handed to me for execution, and to be carried out on my return.

Q. Do you know of anybody besides Mr. Robert H. McCurdy who had anything to do with fixing the terms of that contract? A. I do not.

Q. Is that true with other contracts with agents, do you ever, yourself, fix the terms of any contract? A. I think I have signed most of the other contracts and fixed the terms with the salaried men of the agencies.

Q. Well, with the other men who are not salaried? A. That is fixed by the executive officers.

Q. Without your opinion being asked? A. Well, it has been asked when the rate of commissions are determined for the ensuing year, or ensuing period of years. As I recollect the last time it was fixed by the president and the meeting of the executive council of the executive officers I was consulted and it was fixed for a period of three years.

Q. What are you referring to now, what contract? A. The commission contracts with the general agents.

Q. You mean the form of contract? A. The form and amount.

*Testimony of George T. Dexter*

Q. The scale which appears in your printed form? A. Exactly so.

Q. But in regard to variations from that regular scale in favor of any particular general agent, have you been consulted about that? A. Very frequently, yes, sir. I think every time a change has been made.

Q. You have never been consulted about it in the case of Raymond & Company? A. I have not.

Q. Do these matters come before any committee? A. They are all approved by the agency committee in accordance with the company's By-Laws.

Q. Is that a formal approval or are the matters taken up and discussed with the members of the agency committee? A. That I am unable to answer.

Q. Who are the members of the agency committee? A. Mr. H. H. Rogers, Mr. Dumont Clarke, Mr. Truesdale, and who is the other man—and the president, general manager, actuary and second vice-president, are the agency committee of the Company. The matters are discussed in a general way by the agency committee, the policy and plan determined and turned over to me for execution.

Q. Was the matter of the Raymond contract brought to the attention of these gentlemen you have mentioned? A. I am unable to state.

Q. You do not attend the meetings of the committee? A. I frequently do.

Q. Did you ever hear it discussed at any of the meetings? A. I did not.

Q. Now so far as you know are there any general agents or has there been any general agent of your Company who has made as much money as C. H. Raymond & Company? A. There certainly has not.

*Testimony of George T. Dexter*

Q. Or who has had the same rate of commission? A. Up to the last contract?

Q. Yes. A. Yes.

Q. What agent? A. The Philadelphia general agency and I think the Chicago general agency before the change.

Q. Well that was many years ago? A. Yes, that was about five and one half years ago.

Q. Do I understand that five and one-half years ago the Chicago general agent had a contract under which he got as high as 85 per cent. of twenty-year distribution business or premiums paid?

A. That is my recollection.

Q. How long did that continue? A. I think about two years before the discontinuance of the agency.

Q. Who was that agent? A. C. H. Ferguson, now deceased.

Q. Have there been any relatives of Mr. McCurdy who have been general agents of the Company anywhere? A. I think not. I know of none.

Q. In San Francisco? A. Mr. Forbes? He is no relative.

Q. What is that? A. At San Francisco?

Q. Who is the agent there? A. Mr. A. B. Forbes and until his death two years ago when his son, his salaried manager, succeeded him. No relation.

Q. You spoke of the Philadelphia agency. A. Yes.

Q. Who was the agent there? A. Major Lambert, Lambert & Waterhouse, up to the death of Mr. Waterhouse, which was two years ago, and for one year Major Lambert continued the business as general agent, but it was discontinued on the 31st of last December. He also had an overriding commission to the best of my recollection, the same as with C. H. Raymond & Company.

Q. That was down to what date? A. The close of 1903. It appeared and was demonstrated that the business in large business centers was more expensive and it was necessary to procure

*Testimony of Thomas C. Bell*

the required amount of business to pay an overriding commission in these very large cities.

Q. What amount was made by the Philadelphia agency in the years 1902 and 1903? A. I unable am to state.

Q. Any idea? A. No, I could not state any figure that would be even approximately correct. You will readily understand that the sub-agents contracts in the commission general agency are not filed with my department. They are for the salaried managing agencies, and that we can control readily.

Q. Do you know what the gross receipts of their agency was? A. I could produce that. I have not it in mind.

Q. Do you mean to say from your acquaintance with the business of the Company it was necessary that C. H. Raymond & Company should have the rate of commission that was payable to them in order that they could do a profitable business for the Company? A. It was maintained by them that a commission rate was necessary to secure the volume of business that the Company required from them.

Q. Was it necessary to give them a rate of commission out of which they could make \$200,000 net? A. Well, it was done.

Q. It was done. Now I want to know whether you have from your experience any justification for it? A. I should say no.

MR. HUGHES: That is all.

THOMAS C. BELL, called as a witness, being duly sworn, testified as follows:

BY MR. HUGHES:

Q. What is your position? A. Well, I have charge of the details of the management of the metropolitan agency.

*Testimony of Thomas C. Bell*

Q. Of C. H. Raymond & Company? A. Yes.

Q. When you say you have charge of the details, just what do you mean? A. I mean looking after the branch offices and the agents and the accounts.

Q. How much of the time is Mr. Raymond at the office? A. Well, it depends upon his health largely. I cannot say really how much.

Q. Well, take the year 1904. A. 1904 I presume he was in the office well from half to two-thirds of the time. There were long stretches when he was not there and then he would be there regularly at stretches again.

Q. That is half to two-thirds of the year you mean? A. Yes.

Q. How long did he remain in the office when he was there? A. Generally from about a quarter of ten to about two o'clock.

Q. How much of the time was Mr. Thebaud in the office during 1904? A. In 1904 he was there all the while with the exception of a week or so in the early spring or later winter and a week or so in the fall.

Q. There through the summer? A. Yes, through the whole summer.

Q. And what hours? A. From about half past nine until four o'clock.

Q. Are commissions allowed by C. H. Raymond & Company to any persons who are not regular agents employed by them under contract? A. No sir, not supposed to be. I do not know them to be.

Q. Well—you would not know as to that? A. No.

Q. Has any commission ever been allowed to a director of the Mutual Life? A. No.

Q. By C. H. Raymond & Company? A. No, not that I know of.

*Testimony of Thomas C. Bell*

Q. Or to any agents or employees of the Mutual Life? A. Any of the employees of the Mutual Life?

Q. Yes. A. Yes.

Q. What is the practice in that regard? A. The practice is this. That a commission is paid to a licensed agent only. Now there are a number of employees of the company, clerks in the different departments who come across in their evenings and spare time people who they can solicit for life insurance, and perhaps in the course of a year they will write all the way from \$3,000 to say \$15,000, perhaps a half a dozen applications, perhaps less. And in that case they apply to be recognized as agents and a license is procured for them and they are paid the regular commission for their business.

Q. Did you ever hear of a case where a commission, however it was deducted or allowed, went to a director of the company? A. No, sir, not to my knowledge.

Q. Never heard anything of that sort? A. No.

Q. What do you do about advancing money to your sub-agents? A. Up to 1904 we virtually advanced no money to sub-agents, only in very exceptional cases.

Since 1904, that is from February, 1904, to the present time the managers of the different branch offices in employing new men whom they are instructing in the business until they get on their feet and become efficient sometimes, not always, depending upon the circumstances and depending upon the men, advance him small amounts, sometimes as low as \$15 a week and sometimes as high as \$50 a week for two weeks, three weeks, four weeks, whatever the individual circumstances may seem to justify and he receives—he charges—he does not charge either, he calls for or requests a check as he may need it for his advanced account. He renders a statement monthly of that advanced account, to whom he has made advances, what credits are against it. Understand these advances are

*Testimony of Thomas C. Bell*

against any commission that may be earned, and he agrees on a receipt to return them in commissions or otherwise. They are strictly loans, and he renders a statement showing how much has been advanced to the different men and how much they have been credited and the state of the account. The company, whatever the advanced account may be that we have disbursed—we receive from the company for that purpose. In other words we are advancing that for the company.

Q. Well, do I understand that prior to 1904 the firm of C. H. Raymond & Company never made any advances to any of the agents working for them? A. I would not say never, but they did not make a practice of it. There might be exceptional cases where it was thought advisable to do it, but to a limited extent.

Q. What would you say was a limited extent, how many thousand dollars did you have out say in 1903? A. Some years we would not have \$3,000 out. I don't believe we ever had more than \$5,000 at one time.

Q. Did the company itself make any advances to any of the agents employed by C. H. Raymond & Company? A. No.

Q. So that the matter of advances to agents assumed no proportions at all before 1904? A. No, sir, none whatever.

Q. How did it happen in 1904 that it became necessary to change the policy of the company? A. The company I presume it was the superintendent of domestic agencies, I don't know positively but I presume it was, thought that we ought to establish more branch offices and employ men in smaller numbers, smaller lots, that is under the direction of a manager, that is not to have one manager with so many men to look after so his attention could be centralized on the few men and that the proper way, which C. H. Raymond & Company had not considered advisable—that the proper way was to be introducing new blood into the business all the time and intro-



*Testimony of Thomas C. Bell*

ducing new men under competent management and thereby increasing the agency force and increasing the business. So their proposition was to have that done and to establish these new branch offices—there were altogether some fourteen—there were some nine or ten new branch offices established.

Q. Did you ever hear of any rebate being given? A. I hear lots of talk about rebates being given, but have never been able to nail a case with all my trying. I have tried lots of times.

Q. Have you any rules and regulations in your office in regard to rebating? A. Our contracts forbid any agent to rebate.

Q. What do you do to find out whether they are lived up to? A. I have tried every way.

Q. What are some of the ways? A. Some of the ways are to get a man to say he has received——

Q. To come and tell you? A. Precisely, to get the agents, but when a man gives an agent a check for the full premium and the agent receives his commission and hands so much back in cash the man is not going to tell and the general——

Q. You have been in C. H. Raymond & Company's employ for a number of years and in direct touch with all their business? A. Yes.

Q. Just tell me if you ever heard of a case of rebating? A. Yes, lots of times, but I have not been able to prove it.

Q. When you heard of a case did you investigate it? A. Yes, lots of times, but Mr. Hughes, I have given them up sometime ago as a bad job.

Q. How long ago? A. Well, several years ago.

Q. Then practically is anything done to prevent rebating? A. No. Things have been done.

Q. That is within the past few years? A. Endeavors and earnest endeavors have been made without effect.

Q. What are the earnest endeavors? A. Just as I have told

*Testimony of George T. Dexter*

you one time, for a long time we required an affidavit from every man that paid a premium or a statement from every man that paid a premium to the effect that there had been no rebate directly or indirectly.

Q. When was that given up? A. That was done for some two or three years along, I cannot give you the exact year, but along about 1897, 1898 or 1899, along there, and we found that a dishonest man would sign the statement without a quibble and then the honest man would call us to account for putting him at a disadvantage, for making him perjure himself or lose the business.

Q. So you gave that up? A. So we gave that up.

Q. You would not have a man lose the business? A. We do not want a man to lose the business, certainly not. The man himself does not want to lose the business.

Q. Are these clerks and employees that get commissions in the manner you have stated licensed? A. Yes, sir.

MR. HUGHES: You may step aside.

GEORGE T. DEXTER, recalled, testified as follows:

BY MR. HUGHES:

Q. This general question of advances to agents has been brought up by your testimony, Mr. Dexter? A. Yes, sir.

Q. What is the practice of the Mutual Life in that regard? A. It prevails to some extent.

Q. How do you treat in your accounts the advances to agents? A. All carried until repaid as agents' balances.

Q. They do not appear in your statement do they? A. Yes, sir, they do.

Q. Or they are deducted. A. They appear there.

*Testimony of George T. Dexter*

Q. They are deducted, are they not? A. Yes, sir.

Q. That is they are not allowed? A. Not allowed as an admitted asset.

Q. The agents' balances for the year 1904 appear to be \$836,202.69? A. That perhaps needs some explanation. We have about one hundred collecting agencies in the United States and Canada and the premiums are paid by checks from the country, the surrounding territory. They are deposited in the bank of deposits at the headquarters of the agencies. Now, if New York exchange was immediately asked in exchange for the deposits the bank would be paying out its own money before it was able to collect the country checks. Consequently they require a considerable balance in the bank at all times. This, as I have stated, are the policyholders checks that have been deposited and have to be collected on the country bank upon which they are drawn by the bank of deposit. Now, there is an average of \$4,000, which is in those banks in that way. It is uncollected premiums practically, and there is no place to put it when the report is made as it is a balance in the hands of managing agencies, but to so classify it the agents' balances in domestic agencies are a little less than four thousand dollars. The difference between the two being the balance which is practically an agents' balance, a managers' balance in their hands, but moneys in deposits for collections.

Q. Not in moneys. Have agents received advances from any of the companies in which the Mutual Life is affiliated, as far as you know? A. I don't quite grasp the question.

Q. Do the agents get any advances from any of the companies with which the Mutual Life is connected, or in which it has an interest—trust companies? A. Oh, absolutely no.

Q. Have you ever made over, that is, the Mutual Life, has it ever made over to any of the companies in which it is interested any amount of agents' balances? A. Absolutely no.

*Testimony of George T. Dexter*

Q. Nothing of that sort? A. Every dollar of the agents' balances appears in that account, and every agent's balance that is not deemed good by myself and the supervisor in conference together with the manager, is charged off to the cost of new business, and those charges are made in June and December.

Q. Now, a little while ago in your testimony you referred to some loans that Mr. Gillette had? A. Yes, sir.

Q. With the United States Mortgage & Trust Company? A. Yes, sir.

Q. Please explain that a little more in detail? A. Very good. The United States Mortgage & Trust Company made a loan to Chamberlain & Gillette upon the assignment of their renewals to that trust company. The loan continued there until perhaps four years ago, when the trust company didn't care for it, and I loaned the money direct through the company's accounts to Chamberlain & Gillette, taking therefor a full assignment of their renewals, which were roughly valued at \$80,000.

Q. What was the amount of the loan? A. The loan originally stood at about \$2,000, but it operates in this way: Texas is a field where the note business prevails. The general agent must take notes coming due when the crop matures, it being a farming community. Now, they must pay their agents something for living expenses and must deduct something from the amount. The bank charges them down there perhaps ten per cent. for money. They must have money. I have loaned them every year for the past five years about twenty thousand dollars, they agreeing to pay in the closing month of the year enough to pay that loan off. That we will call a second loan. The original loan, I think, still stands. I will have to consult the record to know where that stands. Every year of the five they have promptly paid the loans as they have matured, and we will have a full assign-

*Testimony of George T. Dexter*

ment of their renewals to cover that money. We are merely lending the money and we charge them five per cent. interest.

Q. Are there other cases that you know of where they or other agents have borrowed money from the United States Mortgage & Trust Company? A. I think that Fleming Bros., of Dubuque, Iowa, borrowed five thousand dollars at one time when they needed money in the purchase of some property or something or other and made an assignment of a portion of their renewals to the United States Mortgage & Trust Company, but everyone of those loans were cleaned up some four or five years ago. I looked to that.

Q. Would that be true also of any other companies, that is to say, the Guarantee Trust Company and other trust companies? A. Never. It was a little arrangement with a man who was connected with the United States Mortgage & Trust Company to furnish these men money to transact business. In the way I have stated the United States Mortgage & Trust Company did not like the business, and asked me to take it out of their place some four or five years ago, and it was done. There now stands loaned to four of our agencies a total amount not to exceed \$50,000, upon which we got five per cent. interest and the assignment of the renewals in each and every case.

Q. Do you know anything about the practice of the Mutual Life in loaning upon policies? A. Well, simply the general rules.

Q. What are they? A. That a loan will be made upon application on a policy that has a loan value. That is, if more than three years old at a rate of five per cent. to a certain amount of the reserve.

Q. What is the policy of the Mutual Life with regard to the limit upon risks which it will take upon any one life? A.

*Testimony of Robert H. McCurdy*

\$250,000 is the limit. A most careful medical examination is made. If the application is for more that is all reinsured in other companies.

Q. That is the only amount? A. That is the limit.

Q. Which you keep upon any one life? A. Yes, sir.

MR. HUGHES: That is all for the present. Mr. McCurdy, will you resume the stand.

ROBERT H. MCCURDY, recalled, testified as follows:

BY MR. HUGHES:

Q. Mr. McCurdy, just a question or two before the adjournment. I understand that you were a director of the Morristown Trust Company? A. No, sir.

Q. Do you know what rate of interest the Mutual Life gets upon its deposit there? A. I do not, sir.

Q. Who is in charge of matters of deposit in these companies and the regulation of them? A. The treasurer.

Q. Do you know what the Morristown Trust Company pays to other depositors? A. I think it is two per cent., though I am not sure.

Q. You don't know what the payment is to the Mutual Life? A. No, sir.

Q. My attention has been called to a movement a couple of years ago in which a former agent of your company, by the name of Bolles, was interested. Where is Mr. Bolles, do you know? A. I don't know where he is.

Q. What were the circumstances under which he dropped that movement, do you know? A. I don't recollect the particulars of it. I was not an officer of the company at the time. My knowledge was only——

*Testimony of Robert H. McCurdy*

Q. 1902 or 1903? A. 1902, I think. I was not an officer of the company at the time. As far as I recollect—

Q. Do you recall anything of the movement itself? A. Oh, yes.

Q. Who conducted the negotiations which led to its abandonment? A. Mr. Short.

THE CHAIRMAN: When you reach a convenient place we will adjourn.

MR. HUGHES: Very good; in just a moment.

Q. Mr. Edward Lyman Short? A. Mr. Edward Lyman Short.

Q. Is he the only one? A. He and—I was present, I recollect now; Edward Lyman Short and Bolles' counsel from Milwaukee. The counsel came on from Milwaukee and they had—he and Short had a conference at which I was present. I must have been an officer at the time, and my recollection of the settlement was that he was paid—his renewal interests were computed at their regular value as valued by the actuary.

Q. How much was that? A. I haven't—I can't tell you offhand.

MR. BECK: Mr. Dexter says the renewals were not purchased.

MR. HUGHES: Do you know about it, Mr. Dexter?

MR. DEXTER: I am more or less familiar with it.

MR. HUGHES: Do you know the terms of the settlement?

*Testimony of George T. Dexter*

MR. DEXTER: It was an adjustment of his outstanding agents' balances—yes, I can explain it.

MR. HUGHES: If you will step aside, Mr. McCurdy.

GEORGE T. DEXTER, recalled, testified as follows:

BY MR. HUGHES:

Q. Mr. Dexter, just tell us what came of this movement by Mr. Bowles against the management of the company and what he was paid? A. I must begin to tell of his discontinuance and tell the whole story.

Q. Yes, tell the whole story. A. It was thought best on a certain 5th day of December that Mr. Bowles be removed as general agent of the company. The instructions were given to that effect. I carried out the instructions and took possession of Mr. Bowles' offices in Milwaukee.

Q. That was the end of 1902, wasn't it? A. I think so, either 1902 or 1903. 1902, yes, sir. At that time he had many agents under guarantee in advance. He had much business under way. He claimed from the start of the movement and of the controversy, that by some error of taking possession of his office at that time it was a great financial injury to him and that had he remained to the end of the year, his agents having the best part of the year, would have produced profits, which, credited to their accounts, would have made him whole. After he carried on the movement for some time with not indifferent success, his attorney, Mr. George Miller, of Milwaukee, appeared and suggested that the quarrel be settled. The company indicated their willingness to settle the quarrel as may be supposed. Then the question of terms arose and was referred to Mr. Short and Mr. Miller for discussion. Mr.



*Testimony of George T. Dexter*

Bowles required a certain sum of money, which to the best of my recollection, was \$35,000, to settle the indebtedness for his claim as first stated. The question of his renewals, which had not been paid during the month or months of this controversy, was taken up for discussion, and the renewals were held up and not paid monthly, as they were supposed to be, and the agreement as to the cost of collection of those renewals was not paid. There was also a complication, as he had previously been a partner in the New Orleans agency and had some interest there, and made the same claim. Inasmuch as the connection with the company ended his note interests and his agency balances suffered in New Orleans. A settlement was made with Mr. Short and by Mr. Miller. His renewals were purchased after considerable negotiation. The company is now collecting his renewals of his Milwaukee establishment and sending him checks, I presume, monthly, or at stated intervals, less the cost of collection. It was a general impression that the renewals were purchased at an enormous price. No sum of money was paid. As I said, I only know part; I only know indirectly. My understanding is that \$35,000 was paid to him to settle these various claims, and that was all.

Q. You will recognize this probably as a collection of letters from prominent policyholders complaining of the management of the Mutual Life which was prepared at the instance of Mr. Bowles? A. I remember it.

Q. Mr. Usher was secretary of the policyholders' movement? A. He was; yes, sir.

Q. And the country was to some extent circularized? A. It was.

Q. And some people of importance became interested in the movement? A. Yes, sir.

*Testimony of George T. Dexter*

Q. As, for example, indicated by that (showing letter to witness)? A. Yes, sir.

Q. And then this interview took place between Mr. Short and Mr. Miller and the settlement that you have referred to. And what became of the movement at that time? A. It ended. Mr. Bowles and Mr. Usher turned over the office they had established in the National Bank of Commerce across in Nassau Street to us, together with all correspondence and matters pertaining thereto. One of our men went with Mr. Usher to answer any inquiries that might be made and to gradually close it up, and in perhaps thirty days' time it disappeared.

Q. These claims that Mr. Bowles advanced, did he bring them up when he was removed from his office? A. He made a protest at once—by removing him before the time of his contract, as he claimed, expired, he was financially injured.

Q. Did the company at once recognize the justice of his claims? A. I think it was generally recognized that he was financially damaged to some extent by that action, but no steps for a settlement or adjustment until he came forward and indicated his willingness to settle.

Q. When he first made his claims did the company acknowledge them to be just claims, or did it repudiate them? A. They were never acknowledged, until we had a final discussion of the matter. Mr. Short came to me to know if there was justice in these claims, and it merely hinged on the point whether Mr. Bowles forfeited his unfinished business, being removed for cause.

Q. Was he removed for cause? A. So alleged.

Q. That was the position of the company? A. It was, sir.

Q. And when he objected to his removal and claimed that he had been damaged by it, and that he ought to be paid

*Testimony of George T. Dexter*

damages by the Mutual Life Insurance Company, that company stated that it was not liable? A. Yes, sir.

Q. He had been removed for cause? A. Yes, sir.

Q. Then Mr. Bowles started to get up a policyholders' movement? A. He did, sir.

Q. Circularized the country? A. He did.

Q. Got up a good deal of interest? A. Yes, sir.

Q. You were bombarded with letters? A. That is true.

Q. Then there were negotiations for a settlement? A. Yes, sir.

MR. HUGHES: That is all.

THE CHAIRMAN: The Committee will hold its session next week on Tuesday, Wednesday and Thursday instead of Wednesday, Thursday and Friday. All witnesses under subpoena are requested to be here at 10.30 o'clock on next Tuesday morning. The session will probably be held in the Council Chamber on Tuesday, as the Board of Aldermen meets in this room, or will probably meet.

The Committee will now adjourn until 10.30 sharp, Tuesday morning.

The members of the Committee are requested to meet in the adjoining room immediately.

(Adjourned to Tuesday, October 10, 1905, at 10.30 o'clock.)

C O U N C I L   C H A M B E R,

CITY HALL, NEW YORK CITY.

October 10, 1905.

The Committee met pursuant to adjournment.

Senator Armstrong in the Chair.

ROBERT OLYPHANT, called as a witness, being duly sworn, testified as follows:

BY MR. HUGHES:

Q. Mr. Olyphant, where do you reside? A. New York City, 16 East 52d Street.

Q. How long have you been connected with the Mutual Life Insurance Company? A. Since, I think, 1878, as a trustee.

Q. In what capacity were you first employed by the Mutual Life Insurance Company? A. I have never been employed. I am a trustee.

Q. And you have been a trustee then since 1878? A. Yes, sir.

Q. How long have you served upon any committee of the Board of Trustees? A. Well, I think very early in my term of service I was appointed on the Insurance Committee, but I have not the dates.

Q. Do you mean a committee having to deal with technical insurance matters? A. Yes.

*Testimony of Robert Olyphant*

Q. Have you served on any other committees? A. Yes, sir. On the mortuary committee and the committee on expenditures.

Q. What is the function of the committee on expenditures? A. It is practically to review the bills as they come up after having been approved by the executives and order them paid or approve those that have been paid.

Q. In large transactions does the committee on expenditures generally act in advance of payment? A. Yes.

Q. Have you any rule as to the amount which can be paid out by your company without the authorization of that committee? A. Not to my knowledge.

Q. Is there any practice with regard to that? A. Not that I know of.

Q. Do you draw money from the Mutual Life Insurance Company upon your voucher as chairman of that committee? A. I have; yes, sir.

Q. Under what circumstances? A. For legal expenses.

Q. Do you draw all the money that is drawn from the Mutual Life Insurance Company for legal expenses upon your voucher? A. No, sir.

Q. In what cases is the money taken by you upon your voucher? A. Well, Mr. Hughes, as I understand the situation, large corporations have to maintain what you might call a confidential legal fund for the payment of services in legal matters.

Q. Has the Mutual Life Insurance Company maintained such a fund? A. That money that I suppose you refer to went to that fund.

Q. How long has such a fund been maintained? A. I could not tell you.

Q. Well, how long have you known of its maintenance? A.

*Testimony of Robert Olyphant*

Since I have been chairman of the committee and before, but how long I could not remember.

Q. Were you on the committee on expenditures before you became chairman? A. Yes.

Q. And while you were a member of the committee you were also aware of the fund? A. Yes.

Q. Is the maintenance of this fund known to the trustees who are not members of the committee on expenditures? A. I could not tell you. The auditing committee must know it.

Q. Is the matter ever brought before the Board? A. The transcripts of expenditures are read to the Board.

Q. Those transcripts merely show the total amount paid for legal expenses? A. Yes, sir.

Q. Embracing all the legal expenses of the company? A. Yes.

Q. Are the details of those expenses explained to the Board? A. Not to my knowledge.

Q. These are matters of executive management, are they not? A. Yes.

Q. And when you said there was a fund maintained confidentially what did you mean by confidentially? A. Well, I am not a lawyer, Mr. Hughes, but I understand that throughout this great country there are many cases where counsel are employed that do not appear, and money is used to pay them, and they prefer not to give receipts for it.

Q. Counsel are employed who do not appear where? A. In the cases.

Q. Have you employed such counsel? A. Never.

Q. Have you paid money over for their retainer? A. No, sir.

Q. Well, what knowledge have you that any of the money to which you refer was used for such purposes? A. I have simply heard so, I have been so informed.

*Testimony of Robert Olyphant*

Q. In what way were the moneys used for ordinary legal expenses aside from these confidential matters drawn, upon whose warrant or voucher? A. Well, the bills come to us duly approved by the law department and by one of the executive officers. Since I have been chairman all bills have been approved by the executive officers before we act upon them.

Q. In other words, there would be an expense incurred and a proper voucher for the expense O.K.'d by the general solicitor of the company or his representative, and the matter would be passed by your committee? A. Yes.

Q. Now, in these cases that you have just spoken of, why was the money not paid to the general solicitor or upon his warrant or order? A. I could not tell you.

Q. Did you get the money in cash? A. It was drawn in cash, I believe.

Q. The first payment to which I desire to call your attention appears in the blotter under date of January 30, 1904, of Robert Olyphant, chairman, \$25,000, under the heading of law. Did you receive that money in cash? A. That money was paid to me and turned over in cash through the executive, I imagine.

Q. To whom was it turned over? A. I don't know positively, I could not remember. But either to one of the vice-presidents or to the general solicitor.

Q. Did you take any receipt or voucher? A. No, sir.

Q. Did you know what the money was paid for? A. I have told you what I was informed.

Q. I mean more definitely than that? A. I was told that it was necessary for these legal expenses, properly, in the protection of the policyholders' interests and I was assured that it was all regular.

*Testimony of Robert Olyphant*

Q. Did you know where the money was to be expended?

A. No, sir.

Q. In what part of the United States? A. No.

Q. Or the name of any person to whom it was to be given?

A. No, sir.

Q. Or the character of the service for which it was to be given? A. Only legal.

Q. Did you know that it was to be a legal service? A. I so understood it.

Q. Who told you so? A. One of the vice-presidents.

Q. Which one? A. Well, probably Dr. Gillette.

Q. Why do you say probably? A. Because sometimes I conferred with Mr. Granniss.

Q. But generally with Dr. Gillette? A. Yes, sir, he is in charge of the approval of the vouchers that come before the expenditure committee.

Q. I do not understand why this should not have been drawn direct from the cashier by the general solicitor of the company upon his word, and why it should have been paid to you in cash and turned over by you to one of the executives and finally reach the destination that you have stated. A. Well, Mr. Hughes, I could not tell you. That was the mode of doing it and I followed the rule.

Q. You understood that so far as the auditing of the books of the company was concerned that you were responsible to the Board of Directors and to the policyholders for the proper disbursement of the money drawn upon your order? A. Well, I don't know as I have gone into that very deeply in my—

Q. Don't you understand that when you sign a voucher and give it to the cashier upon which he pays you \$25,000 that you are accountable to the Mutual Life Insurance Company for the proper expenditure of that money? A. Not—I don't think when I have had the executive tell me that it was



*Testimony of Robert Olyphant*

properly expended, and I took their word for it. I have every confidence in the executive.

Q. You would account when you showed what you had done with the money and that you had dealt with it under circumstances justifying a belief that it was properly disbursed. Now, you have not yet stated what you did with the money in a definite or particular way or what vouchers you took for it, if any? A. I did not take any voucher for it.

Q. And you have made as full a statement as you can of the disposition of it? A. Yes.

Q. Is that true of the subsequent payments of \$25,000 in August and December, 1904, which you received in like manner? A. They were all alike as far as I know.

Q. Take the payment of August, 1904. Do you know to what executive you turned over the money? A. No, sir.

Q. Would you say that it was probably Dr. Gillette? A. Well, I could not swear to it.

Q. How frequently do these transactions occur in which sums amounting to \$25,000 in cash are taken by you and paid over to some executive of the company? A. I would have to refer you to the auditor to get the dates. They are all in the books.

Q. My idea was that perhaps transactions of such magnitude would make some impression upon your mind and you would be able to state whether there were more than the three that I found the other day? A. There are more than three, sir.

Q. And were there more than three last year? A. I could not tell you. They are all in that book.

Q. Were there similar transactions in 1903? A. Yes, sir.

Q. And in 1902? A. I wasn't Chairman then.

Q. Do you know what the Chairman of the Expenditure

*Testimony of Robert Olyphant*

Committee did in the same way prior to the time when you became Chairman? A. No, sir.

Q. Do the other members of the Executive Committee know that you received this money in this way? A. Yes, sir; their names are on the voucher.

Q. Well, any particular number of names or the names of all the Committee? A. The three on the Committee.

Q. And who are the other two? A. Mr. Holden and Mr. Miller.

Q. What Mr. Holden? A. Mr. James C. Holden.

Q. And Mr.——. A. Mr. Charles E. Miller.

Q. Who was the Chairman before you became Chairman? A. J. Hooper Terrick.

Q. Can you tell me approximately the amount that was received by you upon your voucher in cash and used in the manner you have stated, during the year 1903? A. Well, I should, at a venture, say there were four vouchers in each year.

Q. And each voucher \$25,000? A. I think they were. I won't be sure.

Q. And all charged to legal expenses? A. Yes, sir; as far as I know.

Q. And paid once a quarter? A. No; different times, different dates.

Q. Didn't it ever occur to you, Mr. Olyphant, that it was your duty as the Chairman of the Executive Committee to ascertain to whom this money went beyond the mere statement of an officer of the company that it was being disbursed properly? A. No, sir.

Q. I want to read to you this Article 44 of the By-Laws of your company:

"The Committee on Expenditures shall consist of three

*Testimony of Robert Olyphant*

members who shall meet weekly. All accounts against the company, except those duly authorized by the appropriate committee, must be passed upon by this committee, and all payments only may be made on authority of any of the executive officers in the intervals between the meetings of this committee shall be reported to the committee at its next meeting."

The intent of that would seem to be plain. Was there any report ever made, either to you or to the Committee on Expenditures, as to the way in which these amounts of \$25,000 had been disbursed?

MR. BECK: Mr. Hughes, will you allow me to see that By-Law?

MR. HUGHES: 44 is the one that I read.

MR. BECK: I just want to see the date.

MR. HUGHES: If there is any different By-Law in force, or it has been changed at any time, or my suggestion is not in every way accurate, I should be glad to have it corrected. May we assume that to be correct?

MR. BECK: I think so; subject to verification.

MR. HUGHES: Now, will you please read what I started to say.

The stenographer then read: The intent of that would seem to be plain. Was there any report ever made, either to you or to the Committee on Expenditures, as to the way in

*Testimony of Robert Olyphant*

which these amounts of \$25,000 had been disbursed? A. No; except as I have stated.

Q. Now, I will be glad, Mr. Olyphant, not only because it is proper that you should have the opportunity, but in order that we may be enlightened as far as possible, if you would state as precisely as you can recall what, at any time, has been said to you by any officer of the company as to the purpose for which these moneys were used? A. I understood that these moneys went through the Legal Department for purposes—for the purposes as I have stated

Q. I would like to have you state those again and as definitely as you can, and as fully as possible, that is giving your understanding of it as an officer, or rather, a trustee and Chairman of the Committee. A. Well, it was a confidential fund for—or a fund for confidential legal services.

Q. That is all you can say? A. That is all I can say.

Q. Now, I would like to have you state whether you can—  
A. Now, I might add, that I have heard that there were contributions made to the National Committee, and if they were, I suppose they came out of that fund, and was looked upon as legal services.

Q. Why do you suppose they came out of that fund? A. Because I have heard—I understood that they had been made, and there is nothing to show that they came from anywhere else.

Q. Who informed you that they had been made? A. I—there was one of the—I think Dr. Gillette said there had been contributions given to protect the policyholders against pending legislation—financial legislation.

Q. Against what financial legislation? A. Why, the Democratic Platform.

Q. To what time did he refer? A. I don't know.

*Testimony of Robert Olyphant*

Q. Was this with reference to the last campaign? A. I don't think so.

Q. When did you have your conversation with him? A. I couldn't remember.

Q. Well, have you frequently talked with him about this? A. No, sir. I don't see him very often. I am a pretty busy man, and I get through my work and go back to my own business.

MR. HUGHES: We would like to have Dr. Gillette come down right away, if you will.

MR. BECK: If you want Dr. Gillette will you kindly excuse Mr. Granniss? The corporation now has its two vice-presidents. We must have some one there to attend to their business.

MR. HUGHES: I can't excuse them this morning, Mr. Beck. If you will have Dr. Gillette come down we will try and put them to as little inconvenience as possible, but I think they can spare the time for an hour or two.

Q. So far as you are aware, any contributions made to political campaign funds were not charged to any other account than legal expenses? A. Yes, sir.

Q. Did you ever get any moneys from the cashier on your voucher, which moneys were charged to any account other than legal expenses? A. I don't think so.

Q. Have we now in the eight payments of \$25,000 each, which I understand you recall, all the moneys that have been drawn upon your voucher? A. For those two years?

Q. Yes. Now, previously did you, as a member of the Committee on Expenditures, sign vouchers for similar pay-

*Testimony of Robert Olyphant*

ments to the then Chairman of the Committee? A. I imagine that I initialed them as they were presented to the committee.

Q. Do you recall whether in 1902 and 1901, and 1900 similar payments were made to the Chairman of the Committee, or any payments made to him upon his voucher? A. I couldn't recall it; no, sir.

Q. Or in either of those years? A. I couldn't recall it.

Q. What is your idea about it, was this practice originated when you became Chairman? A. No, sir.

Q. Then we may assume that substantially the same thing had occurred for a number of years? A. Yes, sir.

Q. And were the drafts about the same amount? A. I imagine so.

Q. Were they in round sums of \$25,000 four times a year? A. I couldn't tell you.

Q. When it was necessary to get moneys of that sort, who came to you and asked for them? A. The Executive.

Q. Who brought it to your attention? A. The Executive.

Q. Well, which one? A. Mr. Granniss; sometimes Dr. Gillette.

Q. Did Mr. McCurdy ever come to you? A. No, sir.

Q. What supervision did you exercise over the expenses of the Legal Department with reference to retainers given to counsel and the like in different States? I mean when I say you, the Committee on Expenditures, of which you were Chairman? A. They audited the vouchers and directed them to be paid.

Q. The Committee? A. Yes, sir.

Q. Well, in auditing the vouchers, did the Committee do anything more than to observe that the voucher was for a certain sum of money? A. In very rare instances we may have asked when it didn't show what it was for.

Q. Well, did the vouchers show what they were for, beyond the fact that a certain amount of money had been paid? A. Some yes; some no.

*Testimony of Robert Olyphant*

Q. When they did not show, did the Committee on Expenditures make any effort to supervise the account? A. When they were properly endorsed, no.

Q. What do you mean by that, endorsed by——. A. Duly approved through the different departments.

Q. Well, I am speaking now of the Legal Department. A. Well, through the Legal Department.

Q. Would it be fair to say that any expenditure that came to the committee through the general solicitor, would be passed without question? A. And approved by the executive.

Q. By one of the vice-presidents or the president? A. Yes, sir; one of the vice-presidents.

Q. Are all the vouchers approved by one of the vice-presidents? A. Every one of them.

Q. So that the business of the Committee on Expenditures as practically conducted is to see if the vouchers before them have the signature of one of the vice-presidents and the check of the man in charge of the department? A. Yes, sir.

Q. And that is all they do? A. Principally.

Q. Well, do they ever do anything more than that? A. Once in a while we ask the cause of a charge in different directions.

Q. Why? A. When we think it is a little large.

Q. Can you recall such a case? A. Not at the moment.

Q. And you didn't ask such an explanation in connection with these matters that have been brought to your attention of \$25,-000 each? A. I asked if they were all right and proper and absolutely necessary for the protection of the policy holders' interests in different parts of the country and I was assured they were.

Q. The point I have in mind is this, Mr. Olyphant: These by-laws read very well and we all appreciate the standing of the members of the Board of Trustees. I want to know whether it is the fact that if one of the vice-presidents tells you a particular

*Testimony of Robert A. Granniss*

thing is all right, that you as a member of the committee simply adopt it and ask no further questions, although you know nothing of the matter yourself? A. We have to.

MR. HUGHES: That is all, Mr. Olyphant. Pardon me, I did not ask if the committee had any questions.

THE CHAIRMAN: No, I think not.

MR. HUGHES: Mr. Granniss.

MR. GRANNISS, recalled, testified as follows:

BY MR. HUGHES:

Q. Mr. Granniss, our attention has been called to a contribution to the Republican Congressional Committee of \$2,500 last fall, I understand, as a result of an interview between you and Chairman Babcock. Do you recall that? A. I do, sir.

Q. To what account was that payment charged? A. I presume it was charged to law expenses.

Q. Why do you presume so? A. Simply because I didn't see the entry made.

Q. That would have been the appropriate course? A. That would have been the appropriate course.

Q. Is that the course that other campaign contributions have taken? A. I presume so, although I am not familiar with the exact entries that were made in such cases.

Q. What other campaign contributions have been made by the Mutual Life Insurance Company? A. I can't state positively of my own knowledge.

Q. Well, state what do you know about it? A. I simply know



*Testimony of Robert A. Granniss*

that there were some campaign contributions made, but the amounts I can't state because I don't know.

Q. In what years? A. I think in 1900—no, 1896, 1900 and 1904.

Q. How about 1892? A. That I don't know about.

Q. You were an officer of the company at that time? A. I was.

Q. What was the amount of the contribution in 1896? A. That I don't know.

Q. These were contributions to the Republican Campaign Fund? A. I believe they are.

Q. You are familiar with contributions to campaign funds to both parties? A. No; I am not familiar.

Q. Do you recall a case in which the contribution has been divided? A. I do not at this moment.

Q. Well, why do you say at this moment? Have you a general recollection about that? A. No; I have not.

Q. Is this contribution of last fall to the Republican Congressional Committee the only contribution ever made to the campaign fund of a Congressional Committee? A. The only one that I know anything about.

Q. What other officers of your company deal with such matters? A. Dr. Gillette.

Q. Have you conversations with him from time to time with regard to such matters? A. Yes.

Q. Can a contribution be made without your knowledge? A. It could be.

Q. Or without its coming to your attention as an officer of the company? A. It could be.

Q. Are you in such a position in the Mutual Life Insurance Company that you can take out a sum of money and pay it over to a campaign committee and no other officer of the company know it? A. No.

*Testimony of Robert A. Granniss*

Q. What other officer of the company would have to know it?

A. The President would know it.

Q. Anybody else? A. And some members of the Finance Committee would know it.

Q. Did the members of the Finance Committee know of this campaign contribution to the Republican Congressional Committee? A. I presume they did.

Q. What members of the Finance Committee knew it? A. I could not state positively, but I know that a number of them did know it.

Q. Then you must have told them? A. I or the president.

Q. Did the president know of it? A. He did.

Q. Did he authorize you to make it? A. You mean this particular \$2,500?

Q. Yes. A. He was familiar with the circumstances.

Q. Did he authorize you to make it? A. In the ordinary course—I don't recollect whether he authorized me to make that particular contribution, but I knew what his views were on the subject, and I also knew the views of the members of the Finance Committee on the subject.

Q. What were those views? A. Those views were that under conditions such as existed at that time that it would be justifiable in us to make a contribution.

Q. What were those conditions? A. The conditions were that we were menaced by a revival of the free silver theory.

Q. What, in 1904? A. In 1904, yes.

Q. Last fall? A. That question came up.

Q. Well, that is news to me, but I would be glad to have you state more in detail how you were menaced last fall by the free silver theory? A. That question did come up with my conversation with Mr. Babcock at the time that contribution was made.

Q. And the size of your contribution I suppose indicates the remoteness of the danger? A. I beg your pardon.

*Testimony of Robert A. Granniss*

Q. I said the size of the contribution indicated the remoteness of the danger? A. You mean to imply that if the danger had been greater the contribution would have been larger?

Q. That is what came into my mind. Is that improper? A. That is a matter of taste.

Q. You don't think it would have been larger if the danger had been great. A. I don't think it would have been any larger if the danger had been greater. That is purely a hypothetical question.

Q. Of course. Well, had you had a discussion with President McCurdy as to the danger of the revival of a free silver agitation before this contribution was made? A. I can't recall any such discussion, but the officers and trustees usually discuss matters of that kind and we act accordingly.

Q. Then I suppose other contributions that have been made have been the subject of discussion of the executive officers and members of the finance committee? A. Without doubt.

Q. And in that way must have been brought to your attention? A. Yes.

Q. Even though you didn't actually make the payments yourself? A. Exactly.

Q. Well, now, will you kindly tell us, Mr. Granniss, all about it, just what has been done and the policy of it and why it has been done—all that you recall upon that subject? A. I believe that you propose to examine Mr. McCurdy?

Q. Yes. A. I think perhaps it would be better for him to make that statement than myself.

Q. Very good. As long as we have the facts I don't care who states them. But as you are on the stand, Mr. Granniss, I think you should give your own statement, as you yourself, as an officer of this company, are responsible for the conduct of its affairs. A. I considered, sir, that we were justified, when we considered

*Testimony of Robert A. Granniss*

the best interests of the policyholders in making these contributions.

Q. Well, what was the justification? A. The justification was the free silver menace.

Q. You are referring now to last fall? A. Last fall and previous contributions.

Q. Have all your contributions been dictated by the fear of the free silver menace? A. Mainly.

Q. What else has led to them? A. I don't know of any other causes that led up to them.

Q. How much did the Mutual Life Insurance Company contribute to the last campaign fund of the Republican party? A. I can't state positively, as I told you.

Q. Well, as nearly as you can? A. Well, I don't care to approximate, because you can very readily ascertain the exact amount from Dr. Gillette.

Q. Well, if I can readily ascertain it it must be a matter where you would be very close to the truth. We will correct it if necessary. A. I don't think it exceeded \$20,000, but it may have done so.

Q. What discussion was there before that contribution with reference to its propriety? A. I don't recall any particular discussion, but I do recall the fact that the matter was very thoroughly discussed.

Q. With whom? A. Between the executive officers and members of the Finance Committee.

Q. Did it take the form of a discussion entered in the minutes and followed by a resolution? A. No, informal discussions of that kind are not entered in the minutes.

Q. And then when the money was drawn how was the payment vouchered? A. That I don't know.

Q. You never inquired as to that? A. No, it was not necessary for me to inquire.

*Testimony of Robert A. Granniss*

Q. You say it was not necessary. Why not? A. Simply because the matter was left in the hands of Dr. Gillette.

Q. Reference has been made, Mr. Granniss, to the employment of attorneys in other States throughout the country with reference to matters of legislation. Are you conversant with those matters? A. To a certain extent.

Q. To what extent? A. To this extent, that those matters were in the hands of Mr. Short, the general solicitor, and it was customary for him to confer with me in regard to legislation in different States.

Q. Do you have anything to do with the accounts of the supply department? A. No.

Q. Do you know anything about that? A. No.

Q. Do you know of any moneys paid to Mr. Fields? A. No, I do not.

Q. Are those matters brought under your supervision in any way? A. They are not, no.

Q. Who has charge of them? A. Dr. Gillette has charge of the initialing of vouchers for payments of moneys. That is his particular province.

Q. You have heard Mr. Olyphant's testimony with reference to these moneys that were drawn, about \$25,000 four times a year on the voucher of the chairman of the committee on expenditures? A. Have you ever asked Mr. Olyphant to get any money from the cashier for confidential legal expenses? A. I do not recall having done so. At the same time I find that one of those vouchers has been initialed by me.

Q. Are those vouchers here? A. I believe so.

Q. Will you produce them?

(Papers produced.)

*Testimony of Robert A. Granniss*

Q. (Handing papers.) Here are certain vouchers produced. Which is the one to which you refer? A. The one on top, sir; pay to the order of expenditures.

MR. HUGHES: I will offer the voucher in evidence.

(Paper marked Exhibit 268.)

MR. HUGHES: New York, the 28th day of January, 1904. Received of the Mutual Life Insurance Company of New York \$25,000 for the use of expenditures committee, \$25,000. (Signed) Robert Olyphant, Chairman.

Stamped: Committee on expenditures ordered paid January 30, 1904. \$25,000. Initialed J. C. H. and C. E. N. In the corner "Law." Another stamp, Mutual Life Insurance Company, January 28, 1904.

Q. Is that your name? A. Yes.

Q. Simply Granniss? A. Granniss, with my initial stamp.

MR. HUGHES: Stamped Granniss.

Q. Now, this money was obtained, as I understand it, upon your authorization? A. Yes.

Q. It would not have been obtained without it? A. Oh, yes, it might have been obtained on some other officer's, yes.

Q. Well, by some other officer? A. Yes.

Q. What was it obtained for? A. I cannot tell you, now, sir.

Q. Did you know at the time? A. I presume I did.

Q. Did you know of your own knowledge or from what someone told you? A. From what someone told me probably.

*Testimony of Robert A. Granniss*

Q. And who probably told you? A. I cannot tell positively, Mr. Hughes. I don't know.

Q. Who were confidentially employed by the Mutual Life Insurance Company? A. In what respect, for what purpose?

Q. Well, that is what I want to find out, but Mr. Olyphant said a moment ago that these moneys went to some extent apart from such as may have been used in campaign contributions, as I understood him, for the confidential services that might be required by your company in protecting its policyholders? A. Why those expenditures were all made through Mr. Short of the law department.

Q. Well, was this made through Mr. Short? A. I presume it was.

Q. Well, in order that Mr. Short might get the money an officer would have to approve of the transaction? A. Have to vise it, yes, sir.

Q. What did you know about this or any one of the payments of \$25,000 or about the payments for confidential services of any sort? A. This voucher is dated a year ago, Mr. Hughes.

Q. Yes. A. As I cannot recall at this time, I presume at the time I signed that voucher I was fairly convinced of the propriety of signing it, but I cannot give you the reasons now, for it is a year ago or more.

Q. Have you ever done it before or since? A. I don't know. It is possible I may have, but I do not recall it.

Q. Do you know any persons to whom money is paid for legal services, or ostensibly legal services, whose names do not appear upon the vouchers held by the company? A. I do not.

Q. Did you know of any lawyer who is under annual retainer

*Testimony of Robert A. Granniss*

by the company apart from its general solicitor? A. I do not recall any just at this moment.

Q. Why do you emphasize just at this moment? A. Simply because this is the moment I am being interrogated.

Q. Yes, but do you mean by that that you cannot give his name or cannot think of his name? A. I cannot think of his name at the moment.

Q. Is there any such man? A. I do not know of any such man, but yet there may be.

Q. Have you stated all the moneys which so far as you have ever heard from any officer of the company have been paid to campaign committees? A. I have.

Q. Have you included in your statement moneys paid for state or local purposes? A. I have.

Q. What contributions so far as you have heard from any officer of your company have been made for state campaigns? A. None at all that I know of. I never heard of any.

Q. Did you know that an agent of your company in the State of Washington had paid \$5,000 to a local campaign fund? A. No, I never heard of it, and I do not believe it.

Q. Can such a thing be done by a general agent of your company without its coming to the attention of the officers of the company? A. No.

Q. How would it come to their attention? A. Unless he took it out of his own pocket or out of his own private means he would have to charge it in his account.

Q. And how do those accounts come along, do they have any items such as legal expenses? A. No, unless they are specially allowed from the home office.

Q. Who audits the accounts of general agencies? A. The auditor.

Q. Does the committee of expenditures deal with that? A. Not until after the auditor has passed upon it.



*Testimony of Robert A. Granniss*

Q. You refer by the auditor to Mr. Preller, whom we met the other day? A. I do.

Q. Did you know Andrew Hamilton? A. No, I did not.

Q. Never met him? A. I may have met him once, but if so I cannot recall the occasion. Since this interrogation began I have tried to recall it I ever have had the pleasure of meeting Mr. Hamilton, but I cannot recall that I ever did so.

Q. Did you ever meet any officer of the Equitable or New York Life with a view of determining what steps should be taken with reference to legislation in any states or territories or sections or districts of states? A. No, I never have.

Q. Have you given any instructions to Mr. Thummel as to what he should do with regard to such matters? A. I presume I have, but I have——

Q. Kindly state what instructions you think you have given to him or presume you have given to him? A. I cannot recall. The instructions given to Mr. Thummel varied with the conditions that existed at the time the instructions were given. I cannot recall any case.

Q. Do you recall any case in the last five years in which it has been necessary for your company to give attention to legislation in any particular state? A. No particular case.

Q. Is your mind an entire blank? A. No, not an entire blank.

Q. Will you kindly state what there may be in it? A. You mean in my mind?

Q. Yes, on that subject. A. Well, out of respect to you I won't mention it, sir.

Q. Well, I am sorry, but I understood you said you did have something in your memory on this, and I am anxious to find out what it is. A. I told you I decided each case as it came up, but I do not recall now what particular instructions were given.

Q. No, but when I asked you if your mind was a complete blank on the subject you said not entirely. If there is anything

*Testimony of Robert A. Granniss*

you recall state it. A. I do not recall any particular case when I gave him instructions. It has been the practice of myself and Mr. Short when he was living to have almost daily consultations in regard to legislation in various parts of the country. We were furnished each day with a statement or bulletin, rather, issued by the Underwriter, the weekly Underwriter, an insurance publication in New York City, and that bulletin contained each day a brief memoranda of the laws introduced in various state legislatures all over the country. Mr. Short would generally make some memorandum in regard to whether this law or that law or the other law was favorable or unfavorable to life insurance interests and we would discuss the propriety of either opposing them or favoring them.

Q. That is it exactly. That is what I wanted to get at. A. I supposed you wanted individual cases, and that of course I could not recall.

Q. Well, I wanted whatever you could state, and the statement of the general practice is very important. Now, when you came to the conclusion, on the advice of the solicitor or on your judgment, that certain threatened legislation was hostile to your interests what did you do about it? A. Either I instructed Mr. Thummel myself or Mr. Short instructed Mr. Thummel to take such proper measures as would conduce to defeat legislation of that kind, unfavorable legislation.

Q. What sort of measures were they, was that left entirely to Mr. Thummel's discretion? A. Not entirely. There were some different measures adopted in different cases. We authorized counsel to appear before a committee; we authorized the publication of circulation; we authorized publications in papers and whatever was proper and right to do in order to influence public sentiment or the opinions of legislators in regard to bills that were unfavorable to the interests of life insurance generally. We were not particularly interested so far as our own company was con-

*Testimony of Robert A. Granniss*

cerned, but for all the companies. In cases of unnecessary taxation—what seemed to us unnecessary taxation—or bills requiring that we should comply with certain regulations that were inimical to the interests of the company. All proper measures were adopted in order to prevent the passage of such bills.

Q. Well, suppose it was necessary to expend money in such cases. Was the matter brought to your attention? A. No.

Q. Did Mr. Thummel have authority to draw money for such purposes without the approval of an executive officer?

A. After consultation with Mr. Short. Mr. Short was the medium through which it went.

Q. Did Mr. Short have authority to expend any money so far as might be necessary without consultation with any executive officer? A. Up to a certain extent, yes.

Q. To what extent? A. I cannot state the exact amount, but his recommendation—if Mr. Short came to me and said I recommend that so much money be allowed Mr. Thummel for this, or that, or the other purpose, it was usually vised.

Q. Did he have a regular allowance of an amount which he could spend, or did he make particular requests or requisitions? A. He made particular requests to cover particular cases.

Q. And those were made to whom? A. Sometimes to me and sometimes to Dr. Gillette.

Q. Recalling what you can of what has taken place between him and you on that point, did he explain to you the precise purpose of the payment? A. Usually, as near as I can remember.

Q. Did he give you a voucher stating those purposes? A. I do not recollect that. I do not recall his giving me a voucher. If he had an order on the cashier and wanted me to vise it I

*Testimony of Walter R. Gillette*

would usually do so after his explanation, and if I did not think it advisable I declined to authorize the expenditure.

Q. What amounts of money, say in 1904, were expended in that way to protect the company against legislation so far as you are able to recall them? A. I have not any idea at all.

Q. Well, suppose you, as an officer of the company, wanted to find out, what would you do? Where would you go? A. I would consult with Mr. Short and ask him——

Q. That is impossible, because he is dead? A. I know, unfortunately, it is.

Q. But, he being gone, how would one be able to find out what you spent last year in this way? A. It might be possible through the Law Department.

Q. Is there anyone there who acted as his lieutenant who would know all about these matters? A. Mr. Allen might be able to gather up the vouchers. I don't know about it.

Q. Is there any record or account in the books of your company, or any vouchers in the possession of your company, which would give the information? A. That I do not know, Mr. Hughes. The bookkeeping part of it——

THE CHAIRMAN: Mr. Hughes, when did Mr. Short die?

Q. When did Mr. Short die? A. He died three or four months ago.

MR. HUGHES: If you will withdraw, Mr. Granniss, I will call Dr. Gillette.

WALTER R. GILLETTE, called as a witness, being duly affirmed, testified as follows:

*Testimony of Walter R. Gillette*

BY MR. HUGHES:

Q. You are vice-president of the Mutual Life Insurance Company? A. Yes.

Q. How long have you been vice-president? A. Since July, 1903.

Q. Were you connected with the company prior to that time? A. Some twenty-five years.

Q. In what way? A. First as a medical examiner, outside medical examiner, then as Medical Director, and afterward as General Manager, and finally as vice-president.

Q. How long were you General Manager? A. I did not bring those dates with me, but I think about twelve years. I could not tell you definitely. Ten or twelve years.

Q. Were the duties of the general manager at that time the same as they appear to be now, by the By-Laws, that is, to do whatever may be delegated to him by the executive officers? A. They were.

Q. And what particular part of the business did you have charge of as general manager? A. At that time my particular charge was the management of the domestic agencies.

Q. What were the years exactly, when you were general manager? A. I cannot recall, as I have told you. I did not bring the data with me. I was general manager, I think, ten or twelve years prior to 1903.

Q. Did you have occasion to know of the terms of the contract of C. H. Raymond & Company? A. I think I did.

Q. Did you enter into that contract, or were you instructed to enter into it? A. I entered into it.

Q. On your own initiative? A. I presume so. I cannot think of anything else that would have induced me to.

Q. Was that contract, or those contracts, with C. H. Raymond & Company brought before any committee of the

*Testimony of Walter R. Gillette*

society? A. I don't know whether—I presume they were reported to the agency committee, but I do not recall that.

Q. Is it the practice to have contracts made without reporting them to the Agency Committee? I refer to contracts with domestic general agents. A. I don't know the present practice, but during my incumbency of the office I am under the impression they were reported at the annual meetings of the Agency Committee.

Q. I note in paragraph 11 of the By-Laws it is provided that the president shall also have general direction and superintendence of the affairs and of the officers of the company and shall establish rules and regulations for the conduct of the business of the company and for the direction of its officers; that he may suspend or remove any general manager or general agent at pleasure. As a practical matter, is that interpreted to mean the appointment and terms of appointment of general managers and general agents are entirely within the control of the president, or of such officer as he may appoint as his delegate? A. That is the understanding of the By-Laws.

Q. Yes. So that, under the By-Laws the president can deal with that matter at first hand, or appoint the general manager to deal with it? A. Certainly.

Q. And that has been done? A. Yes.

Q. Is there anyone besides you and the president who are responsible for the terms of the contract with C. H. Raymond & Company, I mean prior to 1903? A. If I recall, I do not think anyone other than the president and myself had any authority in the matter. I do not know whether that authority—he could, of course, have relegated it to the other vice-president of the company. Whether he did so or not I do not know.

Q. But, so far as you now recall these contracts relating to the Metropolitan Agency were fixed either by the president, or by

*Testimony of Walter R. Gillette*

you acting under the president's authority pursuant to the by-laws.

A. I do not know what part the president took in them. I can only refer to my action in the matter, and whatever part I took must have my signature as approval, that is the only evidence I have. I know that I did certify to some agreements.

Q. I have here a number of vouchers which have been produced, which I will read upon the record in condensed form. The first is Exhibit 268, January 20th, 1904, \$25,000, signed by Robert Olyphant as Chairman, and stamped with Mr. Granniss' stamp, as already testified to. The next is July 26th, 1904, \$25,000, signed Robert Olyphant, Chairman, initialed W. R. G. V. P. The next is August 22d, 1904, \$25,000, signed Robert Olyphant, Chairman, initialed W. R. G. The next is November 1st, 1904, \$25,000, signed Robert Olyphant, Chairman, initials W. R. G.

The next is January 11th, 1905, for \$25,000, signed Robert Olyphant, and initialed W. R. G. Do I understand that those respective sums were obtained upon your order, and that the initials "W. R. G." are your initials? A. The initials are, yes, sir.

Q. And were these sums obtained upon your authority? A. I presume they were.

Q. For what purpose? A. For legal purposes.

Q. What legal purposes? A. Legal purposes, as required by the legal department.

Q. Well, what legal purposes required the expenditure of these moneys? A. These matters were wholly in the hands of the General Solicitor, and requisitions were made upon me for the funds and I turned the money over to him.

Q. When, on January 11th, 1905, you initialed this voucher for that date of \$25,000, did you know what that money was to be used for? A. I did not.

Q. Did anybody tell you what that money was to be used for?

*Testimony of Walter R. Gillette*

A. Only in a general way it was necessary for the legal expense of the company.

Q. Why was the money not obtained in the ordinary way upon the solicitor's voucher? A. Because as you perhaps know in all corporate interests there are certain transactions that are done in a confidential way, and these moneys were used in that way.

Q. Would it be any less confidential to have the solicitor sign the voucher than to get the cash on the solicitor's requisition?

A. That was not the method, that is all I can say.

Q. What did you do to ascertain what the confidential purposes were? A. I did nothing. I simply wanted to know if they were necessary and signed the voucher.

Q. What person asked you for that \$25,000, with reference to the voucher of January 11th, 1905? A. I cannot recall that. I think it was the general solicitor, but I cannot recall it.

Q. Do you mean, Mr. Short, was he at the office at that time?

A. I don't know, I think he was; I cannot recall that.

Q. Do you mean to say that you would turn over to the general solicitor in a year \$100,000 apart from all the amounts which went for the support of his department and the payment of counsel in the regular way upon his warrants, without having any idea for what purposes the money was to be used? A. I knew the purposes, to be used for necessary legal expenses. I took his word for it, and acted upon his authority as a responsible dispenser of this fund.

Q. You say you knew the purposes. What did you know about the purposes? A. I said he knew the purposes. I did not know the purpose.

Q. Did not know anything about it? A. I presume they were legal expenses.

Q. Yes. But we were getting at what you were informed?

A. I don't know.

Q. Did Mr. McCurdy? A. I don't know.



*Testimony of Walter R. Gillette*

Q. Or anybody else so far as you know? A. I don't know.

Q. Then do I understand that in the management of your company the general solicitor can get \$25,000 without any statement to any officer for what the money is to be used, and independent of his regular requisitions? A. Not at all. We always confer on these matters. We do not confer altogether, but all these funds are from time to time talked over and used as required.

Q. Now, with whom was this matter talked over or any of these matters to which the vouchers relate? A. I don't know. I presume I must have talked that matter over with Mr. Grannis, perhaps with Mr. McCurdy, but I cannot recall now specifically

Q. You say specifically, have you even any general recollection on the subject? A. Nothing more than I have told you.

Q. You have no knowledge, Mr. Gillette, in the first place, and no recollection in the next place, of what any of those moneys were used for? A. No.

Q. Or what you were told they were used for, or why they should be required? A. I was told they were to be used for legal expenses.

Q. Anything further than that? A. No.

Q. Any discussion ever had further than that? A. No, sir.

Q. Then it comes back to what I said a moment ago, that the general solicitor can get \$25,000 whenever he pleases, without his disclosing the purpose? A. Yes, he can——

Q. Without disclosing the purpose? A. Without disclosing the purpose.

Q. How long has that been so in that company? A. I don't know. I cannot give dates, but the head of a department can get money when he requires it for his purposes.

Q. You are aware, of course, of the regular legal expense

*Testimony of Walter R. Gillette*

accounts for which moneys were drawn in the usual way upon regular vouchers of the department? A. Yes, some.

Q. You know, for example, in 1904 there were \$364,000 drawn in that way? A. No, I don't recall the exact amount.

Q. Do you know what the legal expenses of your company amounted to last year? A. I have not got it here in my mind.

Q. Can you tell within \$50,000? A. I can, by referring to my list.

Q. Please do so. A. I think I have a list here, which will show it.

THE CHAIRMAN: Perhaps it would not be inopportune to suggest again that the proceedings are not being conducted for the entertainment of those present, and indications of approval or disapproval or otherwise by those present of what occurs here is not only embarrassing to the Committee, but embarrassing to the counsel, and to the witnesses, and we would be very obliged to you if you will preserve as strict silence as possible.

THE WITNESS: I thought I had that list with me, but I have not.

Q. Perhaps you will recognize it from the annual report published in book form, from which I take it that your legal expenses for 1904 were \$364,000. Do you recognize that as correct? A. Yes.

Q. Now, it appears that the legal expenses of the New York Life Insurance Company for the year 1904 were \$172,000 from their report, and it appears that the legal expenses of the Equitable Life Assurance Society, according to their

*Testimony of Walter R. Gillette*

report, were \$204,000. I suppose that some time or other it was brought to your attention that the legal expense account of the Mutual Life Insurance Company was very largely in excess of the reported legal expense account of the other great companies? A. It was reported, you say?

Q. Yes, or that was brought to your attention? A. It may have been. It is not clear in my mind that any great distinction was made.

Q. Well, in the management of your company would not the fact that your expenses were nearly \$200,000 more for legal purposes than that reported by the New York Life Insurance Company lead you to make some inquiry of your legal department as to what the money was spent for? A. I perhaps have from time to time inquired, but I don't recall now any special instance, and I never did go into that matter as clearly as you have expressed it.

Q. And you know nothing about it. What officer of your company does know? A. I don't know.

Q. Well, is there any officer of your company who looks into the matters of expenses? A. Those matters are all gone over by our committees and the Board of Trustees.

Q. What committees? A. The committee on accounts and the committee on expenditures.

Q. Now, the committee on expenditures, we have had the chairman of that and he rests entirely on the authorization of Dr. Gillette mainly and sometimes of Mr. Granniss. Now, we have Dr. Gillette and we want to know what he relied upon? A. What, as to these——

Q. As to these expenditures and supervision of the amount of money that the company is paying out for legal expenses? A. Our only supervision is what I have given you, when the general solicitor has applied for money I have given it to him for necessary expenses.

*Testimony of Walter R. Gillette*

Q. Now, did the general solicitor ever make a report to you what the money was for? A. No.

Q. Did you ever ask for a report? A. No.

Q. Did you ever get any vouchers from him? A. For these moneys that you have shown me certificates for? Not for those.

Q. Not for these? A. No.

Q. Now, these aggregate, and I have been assured that these are all the vouchers of this description for 1904, a round hundred thousand dollars, which leaves for legal expenses of your company in 1904 \$264,000, obtained as I understand it, in the ordinary way of the vouchers of the legal department. Did you receive from Mr. Short or anyone else in the legal department a voucher for any part of this \$100,000? A. No.

Q. Did any other officer of the company? A. I don't know that they did.

Q. Did you even have Mr. Short's receipt for the money? A. Why, Mr. Short must have made some account of them? I don't know that he did.

Q. That is what I want to get at. Why do you say he must have made an account of them? A. Well, I know the money was passed to him and that is all I know of it.

Q. Do you know that the whole \$100,000 was passed to him? A. If my signature is on it it was.

Q. Well, look and see? A. Yes; I am certain it was.

Q. Did you get any receipt from him? A. No.

Q. Did you ever get any account from him? A. For this money?

Q. Yes. A. No.

Q. Did you ever ask for any? A. No.

Q. How much of this went for political purposes? A. Not a cent, so far as I know.

*Testimony of Walter R. Gillette*

Q. Well, you mean by that if any of it did he paid it out?  
A. I don't mean anything but what I say. I don't know where a cent of that money went.

Q. Well, do you happen to know what contributions to any campaign funds of any party was made last year out of the moneys of the Mutual Life Insurance Company? A. Yes.

Q. Please state what you know on that subject. A. We made a contribution to the National Republican Committee.

Q. Of how much? A. I think it was—I think it was about \$40,000.

Q. When was that made, about? A. Just previous to the—during the canvass.

Q. Did you make it personally? A. I did not.

Q. How was that booked? A. I made some of it personally through the general solicitor and I don't know who he handed it to. I got the money and gave it to him.

Q. How much was that? A. That was \$15,000.

Q. And who made the rest? A. Well, I don't know. That is simply—I know that money was contributed, but who handed that over I don't know.

Q. How were these payments booked? A. How were they what?

Q. How were they booked—entered on the books of your company? A. They were entered as legal expenses.

Q. Well, are they part of this \$100,000 represented by these four vouchers? A. I can't tell you about that.

Q. Well, are there any—— A. It is very likely—very likely that they were, but I can't be positive about that.

Q. What leads you to say that it is very likely? A. Well, from the dates of the vouchers. From the dates of the vouchers, that is all. This one in August I think might have included my—the matter that I have knowledge of, but I am not certain of that even.

*Testimony of Walter R. Gillette*

Q. Was a contribution made in 1900 to the national campaign? A. There was.

Q. Of what amount? A. I think that was—I think that was \$35,000.

Q. In 1896? A. In 1896—you said 1900 just now?

Q. Yes. A. 1896, I think—I have forgotten—I think it was \$15,000; it may have been more, but I don't recall it very clearly; I know there was a contribution made.

Q. In 1892? A. No.

Q. Before that, in 1888? A. There was no canvass on; no national canvass on on those dates that I am aware of.

Q. In 1892 no national canvass? A. The last Presidential canvass I remember.

Q. Well, I thought there was a Presidential canvass in 1892? A. Well, whatever the dates, we made a contribution in 1896, 1900 and 1904. Those are the only three I know of.

Q. What reason was there—or first, I will ask you whether the payments made last year, 1904, was made on your approval? A. Yes.

Q. What justification had you for using the money of the company for that purpose? A. The same justification that we thought—that we had on previous occasions; we were menaced by the St. Louis platform and we rather feared that snake, no matter whether it bore the head of Bryan or Parker, and we thought it our duty to scotch it. That was the reason; the same reason that appealed to all business men, that that heresy should be killed, and they all contributed, and we thought it was our business in behalf of our interests, in the interests of our policyholders to protect them.

Q. Were you aware of this contribution that was made to the Congressional Committee? A. No.

Q. Did you hear of that at all? A. I heard of that recently.

*Testimony of Walter R. Gillette*

Q. How was it possible that moneys of your company could be used for that purpose without being brought to your attention? A. Well, it doesn't necessarily—we don't always confer with everyone in the office before we make these contributions. I was not conferred with with regard to that matter. I don't know about it.

Q. Did you confer with anyone when you made the contributions with which you had personally to do? A. Certainly.

Q. With whom did you confer? A. Conferred with the president and the vice-president.

Q. Mr. Granniss, you mean? A. And some of our executives—some of the members of our Board of Trustees.

Q. Did you confer with Mr. Granniss with regard to making the contribution last year? A. I did; certainly he knew of it.

Q. Did Mr. Granniss know that the contribution was \$40,000? A. I don't recall that. He must have known it; I must have told him. That was no secret among us.

Q. Did he also know of the contribution in 1900? A. Did he know of it?

Q. Yes. A. I presume he did, but that is a long time since; I can't go back that far.

Q. What members of your board of trustees were consulted by you with reference to that? A. I don't know that I consulted with any of them. I only know that I had the approval of some of them, of Mr. Juilliard, Mr. Henderson, Mr. Baker, and, I think, the Committee on Expenditures.

Q. Mr. Olyphant? A. Yes; I think—yes, he knew of it.

Q. He knew of it? A. I think he did; yes, he must have known of it.

Q. Why do you say he must have known of it? A. Because I just told you out of this \$25,000; he was then chairman of the committee.

*Testimony of Walter R. Gillette*

Q. Well, when you got money on Mr. Olyphant's voucher did you tell him what it was for? A. I did; I think I did. I usually would have told him in such a matter as that.

Q. This was given to Mr. Short to disburse? A. Yes.

Q. Did you tell Mr. Olyphant any purpose of any other payment when he was requested to draw moneys from the cashier? A. I don't understand your question.

Q. I say did you tell Mr. Olyphant the purpose of any other payment that was required when you asked him to get money from the cashier on his vouchers? A. Only in a general way. I told you before if they were for legal expenses I told him that. That was all I knew.

Q. Now, what else were any moneys obtained for from Mr. Olyphant aside from legal expenses and campaign contributions? A. I don't know.

Q. Don't know of any? A. No.

Q. I find that these vouchers I have mentioned were antedated by another under date of June 9, 1903, for \$25,000, signed by Robert Olyphant, chairman, and also initialed by you? Do you recall that, or anything about it? A. Explain that to me. I don't understand you.

Q. I say that another \$25,000, drawn under Mr. Olyphant's signature, and the voucher is initialed by you. Do you know anything about that? A. In connection with this? (Witness referring to voucher.)

Q. Yes; well, anything about money? A. Only one \$25,000 on my signature. This is the only one voucher I know anything about.

Q. Do you know anything about the purpose for which the money was obtained? A. I do not.

Q. Can you state approximately how much money you have paid over during the last four years to Mr. Short or to anybody else upon a statement that it was required for legal



*Testimony of Walter R. Gillette*

expenses without knowing what the particular purpose was?

A. I cannot.

Q. Would it be fair to say that it was as much in years prior to 1904 as it was in 1904? A. I don't think it would be fair to say because I don't know anything about it. I could not tell you unless I had the figures before me.

Q. Were all such moneys drawn upon the vouchers of the chairman of the committee? A. So far as I know.

Q. That was the regular practice? A. For what? Excuse me, repeat your question.

Q. Were all such moneys as were paid over in the manner you have described to the general solicitor without knowing what they were for and independent of his regular requisitions paid or obtained upon vouchers signed by the chairman of the committee on expenditures? A. So far as I know.

Q. I would like to have all the vouchers of the last five years signed by the chairman of the committee of expenditures in this manner. Now, in all cases of the moneys which were drawn for the legal department without being first paid to Mr. Olyphant and turned over to Mr. Short were regular accounts furnished? A. They were accounts furnished from the Law Department for legal services which I endorsed before checks were drawn for them.

Q. That is, there were accounts showing—— A. Disbursements.

Q. The amounts received and amounts disbursed, and what they were disbursed for? A. Yes.

Q. These vouchers that have been produced here relate to moneys that were treated in an entirely different way, is that so? A. In a confidential way.

Q. In a confidential way. Now, you realized the importance of some officer, some responsible officer of your company, knowing exactly what was done with those moneys.

*Testimony of Walter R. Gillette*

Did you know, or perhaps is it the fact that you didn't want to know? A. Well, I don't let you put that word in my mouth, if you will excuse me.

Q. No, I don't want to put it in your mouth, if it isn't so.  
A. We considered Mr. Short a very responsible officer, entirely so, none more so than Mr. Short, our general solicitor, and we recognized his requisitions for moneys as just and correct and proper upon all occasions. He was an officer, virtually, of the company.

Q. And to sum it all up, the confidential payments were made confidential by the absence of any special accounts?  
A. Well, that is an appearance can be put upon that, but they were confidential matters treated in a confidential way, as has been described to you.

Q. And the confidence didn't extend beyond Mr. Short himself—even you knew nothing, Mr. Granniss, knew nothing about the actual purposes? A. We knew they were funds necessary to be expended for the business of the company, confidential funds, and we had confidence and trusted in him, as every officer of the company had, as every trustee of the company had. There was no question made of it.

Q. Has any money of the Mutual Life Insurance Company, directly or indirectly, been expended for any political campaign in any State? A. I don't understand that question. Please repeat it.

Q. (Question read by the stenographer.) A. No, not that I know of.

Q. Or any municipal campaign? A. No.

Q. Has there been any contribution to any Congressional campaign committee other than the one that has been mentioned? A. Not that I am aware of.

Q. \$2,500. How largely do the Finance Committee of your company understand that there is a discretion given to the

*Testimony of Walter R. Gillette*

executive officers in drawing money for confidential purposes? A. I don't know how largely, but I think they understand it.

Q. You think Mr. Juilliard and Mr. Baker and Mr. Henderson are fully aware of that? A. I think they are.

Q. When you became general manager of the company was Mr. Gillette, a general agent or agent of the company, your brother? A. No.

Q. When did he become an agent? A. I think it was about seven years ago.

Q. Were you familiar with the fact that his contract contained any special advantages? A. I wasn't familiar until it was drawn out the other day.

Q. Well, who had the supervision of the making of that contract? A. The superintendent of insurance—the superintendent of the domestic department.

Q. Didn't you, as general manager, have general charge of that matter? A. No.

Q. Were Chamberlain & Gillette's contracts brought to your attention? A. I presume they were, but I don't recall it. Almost all those contracts were brought to my attention.

Q. Well, what did you do, or upon what grounds, were the contracts made with Chamberlain & Gillette in the form in which it appears. A. I don't know exactly the form in which it appears. I don't recall it. But it was in the regular form of all the contracts which I signed; some of one sort, and some were of another. They weren't all copies of each other. Each contract—each agency—each agency varies, but what the distinct characteristic of their contract was I don't recall.

Q. How long has Mr. Fields been connected with your company? A. Oh, I don't know, a good many years.

Q. How long has he been connected with your department of supplies? A. I don't know. He has been, I think—

*Testimony of Walter R. Gillette*

I can't recall exactly, some years; I don't know the number of years.

Q. Ten years? A. Possibly.

Q. What is his salary? A. I think it is \$10,000 a year.

Q. Does he now actively discharge the duties of his office?

A. Not now.

Q. Who does actually discharge them? A. Mr. Norris.

Q. What is his salary? A. I think—I don't know exactly. I think he gets—I can't tell you exactly what.

Q. How long is it since Mr. Fields has been active in the office? A. Well, he has been in ill health for the last two or three years, and he hasn't been very active in the office. I don't think he has—I can't tell exactly how much, but he has been away a great deal on account of his health.

Q. Who supervises the accounts of that department? A. The supply department?

Q. Yes. A. Mr. Norris, or his assistants.

Q. Who supervises the accounts of the department? What officer of the company is responsible for the proper management of that department? A. I can't tell you that. We are all of us—those supplies are ordered by each department, and procured on their requisitions, and those requisitions and bills for payment of the same are usually signed by me by order of the committee on expenditures. In my absence by some other executive officer.

Q. Where do you obtain, for the most part, your stationery and printing? A. Where do we obtain it?

Q. Yes. A. In several quarters—Brewer, Holden, Ahrens, Lawrence and some others I don't recall now.

Q. I notice the total of the printing and stationery account for the year 1904 is \$601,101.21. Can you tell me what proportion of that went to Mr. Lawrence? A. I cannot. The vouchers will show that. I haven't those.

*Testimony of Walter R. Gillette.*

Q. Or what will show it? A. The vouchers, the requisitions will show that.

Q. Have you any idea as to the proportion? A. I have not.

Q. That is without stating it exactly? A. No.

Q. You have no notion? A. No.

Q. Is it true, as has been stated, that he has the bulk of your business in that line? A. I think he has.

Q. And how long has that been so? A. I don't know how long.

Q. Has it been so for ten years or more? A. Possibly.

Q. Has he an office in your building? A. He has a——

Q. Or a store? A. His store is in the corner of our building.

Q. Corner of Liberty and Nassau Street? A. Nassau Street; yes, sir.

Q. Does that connect with the supply department? A. Yes, sir.

Q. With Mr. Fields' office? A. With his quarters.

Q. Is Mr. Lawrence's place in the basement and Mr. Fields' above or are they side by side? A. Right on the same level.

Q. With a connecting door? A. Yes.

Q. And as requisitions come from the different departments for supplies of this sort are they taken by the supply department, and then unified so far as possible into some order which may be needed to meet the demands of the various departments? A. They are.

Q. And Mr. Norris is the man who does that? A. Yes, sir.

Q. Your orders for stationery are very large, are they not? A. Necessarily.

Q. Necessarily very large. Do you ever advertise for bids? A. I don't know that we do.

*Testimony of Walter R. Gillette*

Q. Have you ever advertised for bids? A. I can't recall. I don't know whether we have or not.

Q. Have you ever, without advertising, invited in any way competition? A. Oh, yes.

Q. In large transactions? A. That is done by the supply department. I couldn't give you the details of that, but we get estimates for supplies through that department.

Q. And are those estimates brought to the attention of any officers of the company or does the supply department deal with the matter exclusively? A. The supply department. Mr. Norris usually attends to that matter—Mr. Norris.

Q. So that whether that supply department takes advantage of the lowest bid or handles the matter properly would not be known to the officers of the company? A. That would be supposed, but not known.

Q. Of course you have absolute confidence in them or they would not be employed by you? A. Certainly.

Q. But apart from that natural confidence that you have in your own employees and looking now to the matter of checks and supervision, is there anybody that has the duty of seeing that the accounts of the supply department are proper accounts? A. Not to my knowledge; I haven't exercised that supervision.

Q. And has Mr. Granniss? A. I don't know.

Q. Or Mr. McCurdy? A. I don't know.

Q. What led me to ask the question was your remark a few minutes ago that you had had the checking, I think, of the bills of this department. Just what did you do in connection with that? A. I looked over these bills, and if they were ordinary bills, such as I was familiar with, I checked them and let them go on. If I saw anything unusual, something that I hadn't seen before, or anything that seemed un-

*Testimony of Walter R. Gillette*

usual, I would call the attention of the party who asked the supply.

Q. Well, after the requisition had been made by the department and the matter had reached the supply department that the question came to the filling of the orders, did you have anything to do with that? A. Filling the orders, no.

Q. I mean with supervising or checking any bills that the supply department incurred? A. If the supply department received a requisition which it thought exorbitant or unusual it was usually brought to me.

Q. Yes, I understand that, but I am now talking about the contracts made by the supply department with printers and the amounts paid out upon the requisition of the supply department? A. I never saw those.

Q. You had nothing to do with that? No.

Q. Does the advertising come under your supervision at all? A. No, except to check the bill of the advertising clerk.

Q. Who is the advertising clerk? A. Mr. Sullivan.

Q. What Sullivan? What is his name? A. I don't know whether it is John L. or W. J. I don't know what his name is.

MR. ROBERT H. McCURDY: Walter S., I think it is.

Q. Walter S. Sullivan. What are his duties? A. He is our advertising agent for magazine work and some newspaper work, I think.

Q. Does he stand in the same relation to you with reference to advertising as Mr. Fields or the vice head of the supply department does as to printing and stationery? A. He arranges for the advertising, and that is all he does, and we pay the bills.

Q. And the bills are brought to you? A. And checked by me before they are paid.

*Testimony of Walter R. Gillette*

Q. And checked by you so you know what amount is expended for advertising? A. Well, I don't carry it in my head. Everything is on record.

Q. That is, at the time, I mean.

MR. HUGHES: I desire to read upon the record from the general ledger of the company, which has been produced, certain items of expenses which have been incurred for a series of years. I will read in the totals of the expense account of the different headings as they appear for a series of years, beginning with 1898, reading for each year the items appearing under the accounts described:

|                                       |                |
|---------------------------------------|----------------|
| 1898—Expense, freight and duty.. .. . | \$28,017.71    |
| Exchange .....                        | 48,566.54      |
| Postage, telegraph and telephone..... | 130,092.82     |
| State insurance taxes.....            | 11,796.34      |
| Advertising .....                     | 229,605.80     |
| Medical .....                         | 331,048.24     |
| Law ....                              | 266,403.95     |
| Medical revision .....                | 96,563.37      |
| War revenue tax .....                 | 30,209.09      |
| Printing and stationery .....         | 473,523.84     |
| State insurance examination.....      | 50,142.28      |
| Traveling .....                       | 270,518.21     |
| Sundries .....                        | 450,583.84     |
| Agencies ...                          | 871,900.74     |
| Pensions .....                        | 1,875.00       |
| Salaries .....                        | 690,972.61     |
| <hr/>                                 |                |
| Total .....                           | \$4,381,822.42 |



*Testimony of Walter R. Gillette*

|                                       |                |
|---------------------------------------|----------------|
| 1899—Expense, freight and duty.....   | \$30,224.26    |
| Exchange .....                        | 21,112.72      |
| Postage, telegraph and telephone..... | 139,504.24     |
| State insurance taxes.....            | 421,018.47     |
| Advertising .....                     | 251,751.84     |
| Medical .....                         | 387,932.22     |
| Law .....                             | 286,048.74     |
| Medical revision .....                | 93,850.19      |
| War revenue tax.....                  | 113,109.75     |
| Printing and stationery .....         | 581,783.21     |
| State insurance examinations.....     | 17,859.36      |
| Traveling .....                       | 317,116.20     |
| Sundries .....                        | 484,131.76     |
| Agencies .....                        | 981,154.78     |
| Pensions .....                        | 1,800.00       |
| Salaries .....                        | 686,245.32     |
| <hr/>                                 |                |
| Total .....                           | \$4,814,643.06 |

*Testimony of Walter R. Gillette*

|                                       |                |
|---------------------------------------|----------------|
| 1900—Expense, freight and duty.....   | \$33,890.93    |
| Exchange .....                        | 21,962.66      |
| Postage, telegraph and telephone..... | 141,869.27     |
| State insurance taxes.....            | 467,247.15     |
| Advertising .....                     | 247,349.75     |
| Medical .....                         | 445,881.30     |
| Law .....                             | 304,756.85     |
| Medical revision .....                | 113,987.56     |
| War revenue tax .....                 | 104,162.95     |
| Printing and stationery .....         | 591,202.97     |
| State insurance examinations.....     | .....          |
| Traveling .....                       | 325,264.09     |
| Sundries .....                        | 573,054.57     |
| Agency .....                          | 1,005,509.73   |
| Pensions .....                        | 1,800.00       |
| Salaries .....                        | 707,729.90     |
| <hr/>                                 |                |
| Total .....                           | \$5,085,762.70 |

*Testimony of Walter R. Gillette*

|                                       |                |
|---------------------------------------|----------------|
| 1901—Expense, freight and duty .....  | \$29,386.63    |
| Exchange .....                        | 6,762.77       |
| Postage, telegraph and telephone..... | 152,174.57     |
| State insurance taxes.....            | 53,431.22      |
| Advertising .....                     | 215,882.77     |
| Medical .....                         | 483,342.55     |
| Law .....                             | 243,516.78     |
| Medical revision .....                | 156,664.99     |
| War revenue tax .....                 | 57,691.05      |
| Printing and stationery .....         | 519,750.30     |
| State insurance examinations.....     | 690.55         |
| Traveling .....                       | 202,839.72     |
| Sundries .....                        | 423,682.07     |
| Agency .....                          | 1,006,266.28   |
| Pensions .....                        | 5,737.50       |
| Salaries .....                        | 765,801.21     |
| <hr/>                                 |                |
| Total .....                           | \$4,800,610.96 |

*Testimony of Walter R. Gillette*

|                                        |                |
|----------------------------------------|----------------|
| 1902—Expense, freight and duty.....    | \$30,702.10    |
| Exchange .....                         | 39,752.14      |
| Postage, telegraph and telephone ..... | 162,694.34     |
| State insurance taxes.....             | 688,049.85     |
| Advertising .....                      | 696,486.95     |
| Medical .....                          | 521,191.04     |
| Law .....                              | 215,989.64     |
| Medical revision .....                 | 204,178.14     |
| War revenue tax .....                  | .....          |
| Printing and stationery .....          | 627,984.23     |
| State insurance examinations.....      | 9,480.12       |
| Traveling .....                        | 237,103.83     |
| Sundries .....                         | 321,307.32     |
| Agency .....                           | 938,814.76     |
| Employees and pensions.....            | 14,250.00      |
| Salaries .....                         | 841,382.72     |
| Rent .....                             | 418,532.03     |
| <hr/>                                  |                |
| Total .....                            | \$5,478,939.21 |

*Testimony of Walter R. Gillette*

|                                          |                |
|------------------------------------------|----------------|
| 1903—Expense, freight and duty.....      | \$42,271.66    |
| Exchange .....                           | 28,505.13      |
| International Congress of actuaries..... | 5,818.07       |
| Postage, telephone and telegraph.....    | 182,709.05     |
| Committee fees .....                     | 35,780.00      |
| State insurance taxes .....              | 746,743.75     |
| Office furniture .....                   | 156,440.24     |
| Advertising .....                        | 333,088.21     |
| Luncheons .....                          | 74,994.90      |
| Medical .....                            | 573,337.01     |
| Office repairs and expenses.....         | 39,424.05      |
| Law .....                                | 347,003.81     |
| Rents .....                              | 544,814.72     |
| Medical revision .....                   | 215,574.85     |
| War revenue taxes .....                  | .....          |
| Printing and stationery .....            | 680,849.35     |
| State insurance examinations.....        | 20,661.54      |
| Traveling .....                          | 238,028.42     |
| Sundries .....                           | 7,988.11       |
| Agency .....                             | 1,493,433.98   |
| Employees, in reserve.....               | 14,260.77      |
| Salaries .....                           | 939,655.82     |
| <hr/>                                    |                |
| Total .....                              | \$6,721,383.44 |

*Testimony of Walter R. Gillette*

|                                          |                |
|------------------------------------------|----------------|
| 1904—Expense, freight and duties.....    | \$42,648.92    |
| Exchange .....                           | 57,866.60      |
| International Congress of Actuaries..... | 842.97         |
| Postage, telegraph and telephone.....    | 203,935.53     |
| Committee fees .....                     | 36,000.00      |
| Taxes .....                              | 809,589.02     |
| Office furniture .....                   | 152,077.48     |
| Advertising .....                        | 329,797.02     |
| Luncheons .....                          | 72,861.19      |
| Medical .....                            | 674,675.68     |
| Office repairs and expenses.....         | 24,794.44      |
| Law .....                                | 364,254.95     |
| Rent .....                               | 582,032.47     |
| Medical revision .....                   | 171,184.56     |
| Printing and stationery .....            | 601,101.21     |
| State insurance examination.....         | 375.00         |
| Traveling .....                          | 243,828.11     |
| Sundries .....                           | 5,482.77       |
| Agencies .....                           | 1,804,128.90   |
| Employees in reserve .....               | 19,281.29      |
| Salaries .....                           | 1,002,720.10   |
| <hr/>                                    |                |
| Total .....                              | \$7,199,530.25 |

*Testimony of Walter R. Gillette*

Q. Will you state what particular account from the supplies and advertising and legal expenses, came under your notice, Mr. Gillette? A. Where did you get these items?

Q. I got these items from these totals along here. You can tell, I suppose from the headings? A. Telegraph and postage, taxes from time to time, not always, advertising, medical, law, medical revisions, printing and stationery, traveling. That is all.

Q. Then you have very largely to deal with accounts of the company? A. Simply to revise—vise them and order their payment.

Q. Well, do the Board of Trustees look to you to see that the accounts are kept correctly under these departments? A. No.

Q. What do they expect of you? A. They expect me to do just what I am detailed to do, to check these bills when they are required to be paid.

Q. To see that the amounts paid out correspond with the bills that come in? A. Yes.

Q. But as to the propriety of the payments, apart from their accuracy in amount, have you anything to do with them? A. The propriety is left entirely to the head of the department.

Q. And does anyone look after the head of the department? A. He does in a general way. We all do. If there is anything unusual it is called to our attention and explained.

Q. I find this item in the account under the heading of luncheon last year, \$72,861.19. To whom does that apply? A. That applies to the clerical force. We feed all our employees—at luncheon.

Q. And formerly, before this account was established, that

*Testimony of Walter R. Gillette*

went to sundries; that has been a practice for some years, has it? A. I don't know that.

Q. I notice this luncheon account was only opened about two years ago. A. I don't know whether it includes luncheons or not.

Q. You mean you don't know how it was treated before that, and what account it went to? A. No.

Q. I notice an item, "Committee fees," for example, last year, \$36,000. Members of what committees receive fees?

A. All the standing committees and sub-committees.

Q. Do the ex-officio members of the committees receive fees? A. Not a dollar.

Q. Merely paid to those who were not officers of the company? A. No officer of the company receives a dollar, and never has so far as I know.

Q. This item, rent last year, \$582,032.47, applies to what? A. That item I have not had anything to do with. Did I say that I had?

Q. No, but that is the reason I was asking. You do not know anything about it? A. No.

Q. Were those items in sundries before? I see the sundry account has fallen off and the items increased—perhaps the bookkeeper could tell that better than you? A. Yes.

Q. What is meant by employees in reserve? A. That is a class of men who have been in our service for many years and are incapacitated by age from active service. We put them in reserve and pay them half of their salary, if they have been with us a certain number of years, and use them from time to time as occasion may require.

Q. Who are on the pension or reserve roll at present? A. The names of them?

Q. Yes. A. Let me see, I cannot think of them. There is



*Testimony of Walter R. Gillette*

only a very few; I cannot recall those, but we can let you have those if you want them. About half a dozen I think.

Q. Recurring now to the legal expenses, you will notice that at the end of 1901, they amounted to only \$243,000, and at the end of 1902 to \$215,000 or \$216,000, and at the end of 1903 they amounted to \$357,000. Can you explain why your legal expenses should have been \$130,000 more in 1903 than in 1902? A. Simply from the natural growth of the business. Our business is increasing, you know, constantly, and our legal requirements are relatively and proportionately increasing.

Q. Did your business grow much more between 1902 and 1903 than it did between 1901 and 1902? A. I cannot tell you that exactly in figures, but we have been progressing gradually for years.

Q. Yes. I notice that the legal expenses were less in 1902 than they were in 1901 by some \$30,000, being \$243,000 at the end of 1901 and \$215,000 at the end of 1902, so the growth of your business during that year—I suppose it did grow—did not increase your legal expenses? A. There might have been some individual cases of litigation in one year that did not appear in another.

Q. Exactly. A. The Law Department can give you those details. I don't know about them specifically, only in a general way. Some years we have more lawyers to deal with than others.

Q. Now, in the last two years, your legal expenses have been larger, by a very large amount, in the neighborhood of one hundred thousand dollars or more, than ever before, have they not? A. I think they have, yes.

Q. Has that occasioned inquiry and examination on your part? A. Only in a general way. I know we had some expensive litigation in the settlement of some heavy frauds that

*Testimony of Walter R. Gillette*

were perpetrated upon the company, especially the Blair case, in Missouri, and there were two or three instances of that nature, and then I think we had some pretty expensive litigation in Wisconsin regarding the high taxation, but I have forgotten what it was, but it was last year we had considerable difficulty there with the authorities regarding what is called the surplus. That involved us in a great deal of expense. But all those items are not clear in my head, Mr. Hughes. I think they can be satisfactorily explained by the proper department.

Q. I notice that in 1900 the law expenses amounted to \$304,000, and they fell in 1901 to \$243,000, and then to \$215,000, or \$216,000, and then they rose to \$347,000, and last year to \$364,000. A. Yes.

Q. Is there any explanation whatever? A. Except as a lawyer you know that these accidental cases may cause one year a large expense in defending and other years we have not so many frauds perpetrated.

Q. I suppose that would likely be true in other companies as well? A. Well, probably, but possibly not. They might escape it.

Q. Have you made any comparison of your report of legal expenses for these years with those of other large companies? A. No, I have not.

Q. Would not you deem it to be your duty to ascertain whether the moneys of your company were being expended conservatively by the Legal Department? A. I have no doubt of it, or I should have questioned it.

Q. Would not you be in doubt of it if you found that your legal expenses were one hundred thousand dollars more than any other company in the country? A. No, we do not know how they conduct their business.

Q. Would not you like to find out how they reduced their

*Testimony of Walter R. Gillette*

expenses one hundred thousand dollars? A. We have never acted in co-operation with any other company in the transaction of our business that we are aware of.

Q. Except, of course, in the matters of which Mr. Thummel testified to? A. Yes, in the matter of legal defense.

Q. What are these items under the head of agency? Do you know what those relate to, one million dollars and so forth, does that include commissions? A. I fancy not.

Q. Not commissions? A. No, I think that is the commission account (after consultation with Mr. Gretsinger).

Q. The question is, what are these items under the head of agency? A. That is salaries for managers, rental for offices and clerk hire.

THE CHAIRMAN: You are getting the record confused, and the stenographer is not able to tell what the answer should be.

Q. The question is what items are embraced under the head of agency, and I understand the witness to state that those are expenses of branch offices, salaries of clerk hire of agencies, incidental expenses of the agencies that are not classified in these other headings. Will you adopt that answer, is that true? A. Yes.

Q. Now, you will notice, Dr. Gillette, that the expenses of the company which amounted in the aggregate so far as the expense account is concerned to \$5,478,939.21 at the end of 1902, and to \$6,721,383.44 at the end of 1903, and \$7,199,530.25 in 1904, show a very large increase. What have you done, as an officer of the company, to reduce, if anything, the cost of insurance for the expenses of your company? A. Only what I have described to you. I have had nothing to do with the agency management, where, perhaps, some of this expense occurs. All I have done is,

*Testimony of Walter R. Gillette*

as I have described to you heretofore, passed upon bills that I thought were correct, and questioned those that I thought were unusual, and that I did not understand.

Q. Have you done anything with regard to the reduction of salaries? A. No.

Q. Has such question been raised among the officers of the company? A. Not that I am aware of.

Q. Did the Finance Committee pass upon the increases of salaries that have been made as testified to on Friday? A. I think they have. There is a committee on salaries of the Finance Committee.

Q. Oh, there is a sub-committee on salaries? A. Yes.

Q. Who are the members of that sub-committee? A. Mr. Baker, Mr. Juilliard, and Mr. George G. Havens.

Q. Does the committee on salaries fix the salaries of the executive officers? A. It does.

Q. And does the committee on salaries report to the full committee of Finance? A. I don't know whether they do in a formal way. I think it is known to the Finance Committee, but whether they make a detailed and specific report I do not know. I do not think they do. •I think they are appointed with power.

Q. Appointed with power to fix the salaries? A. I think so. I am not familiar with—

Q. Does the matter of salaries come before the Board of Directors at all? A. The Board of Trustees, you mean?

Q. Or trustees, yes. A. Only through that committee.

Q. Does it come through that committee to the Board? A. Through the sub-committee on salaries.

Q. I mean does the Finance Committee, through the sub-committee, or otherwise, bring the matter of the increase of salary before the Board of Trustees? A. Not to my recollection.

Q. So that the salaries that have been proved here are fixed yearly by the sub-committee without any ratification of their

*Testimony of Walter R. Gillette*

action by the Board of Directors or Trustees? A. I think that matter——. I do not think they report their action to the full Board, I do not think they do, I do not recall it.

Q. That probably can be answered later. Are those matters discussed in the full Board? (Witness shakes his head.)

Q. You are aware, of course, that salaries have to be fixed annually under the law. A. By-law—yes.

Q. Well, under the law of this State, I believe. Is the matter taken up annually by the sub-committee? A. The sub-committee meets every year.

Q. Once a year? A. About the first of the year.

Q. And fixes the salaries for the year? A. I don't know whether they meet subsequently or whether they ratify the salaries of the year previous, or not. I do not think they do.

Q. No, not of the year previous, but do they fix them for the ensuing year? A. I don't know whether they enact them or not by a vote or by consideration. I do not know because I am not a member, and have not attended that committee's meetings.

Q. You do not know what minutes they keep? A. No. I assume they do what they are legally required to.

Q. Was the matter of the increase of the president's salary three years ago, in any way brought to your attention? A. No, I was not on that committee.

Q. Has it been brought to your attention since? A. Why, I have known of it.

Q. You have known of it? A. Certainly.

Q. Did you have to do with this office furniture account? A. No.

Q. Do you know anything about it? A. No.

Q. Who had charge of that? A. I don't think—that is in the Real Estate Department. I don't know.

Q. What officer of your company would deal with such matters in the same way that you dealt with advertising, for example?

*Testimony of Walter R. Gillette*

A. I am not certain, but I think that is in the Real Estate Department, and perhaps Mr. Granniss, who has charge of the real estate matters——

Q. Mr. Granniss has special charge of those matters? A. Whether he has of this I do not know.

Q. What particular departments, Dr. Gillette, do you take charge of, beside looking after these account? A. I have not any special duties. My duties are general.

Q. Whatever the president requests you to do? A. Whatever comes handy with me as an officer.

Q. Is that the same as Mr. Granniss? A. That is the same as Mr. Granniss.

Q. Who is the one more directly in charge of the Real Estate Department. Is there a head of that department? A. There is a Real Estate Committee on the Board of Trustees.

Q. Who is the executive or managing head of the Real Estate Department? A. The comptroller is the head.

Q. The comptroller of the company? A. Yes, Mr. Richards.

Q. Have you had anything to do with that at all? A. No.

Q. Or with this matter of obtaining furniture? A. No.

Q. Before you leave will you state whether you have heard from anyone of any contributions by your company to any political campaign other than those you have mentioned? A. I have not.

MR. HUGHES: That is all. I should like to have Mr. Fields here to-day.

MR. BECK: Have you finished with the witness, Mr. Hughes?

MR. HUGHES: For the time being.

*Testimony of Walter R. Gillette*

MR. BECK: Are you going to resume his examination this afternoon?

MR. HUGHES: I do not expect to.

MR. BECK: May I ask a question, or ask it through you?

MR. HUGHES: Yes.

MR. BECK: I want to ask the witness, in view of certain intimations which have appeared through the public press, whether he or any officer of the Mutual Life Insurance Company, to his knowledge, have had any interest in the business of Mr. Lawrence or derived any profit direct or indirect?

THE WITNESS: Never.

MR. HUGHES: That business will receive a thorough examination.

MR. BECK: I also want, Mr. Hughes, to call your attention to what I thought was a misapprehension. The salaries of the Mutual Life Insurance Company are terminable at pleasure, none of them extend over the year, and as a matter of fact there is no law which requires that they shall be annually fixed, but as a matter of fact all are terminable tomorrow if the corporation so elects.

MR. HUGHES: We shall examine that fully. Will you have Mr. Fields here this afternoon?

*Testimony of Walter R. Gillette*

MR. BECK: If you want Mr. Fields you can subpœna him, Mr. Hughes.

MR. HUGHES: I understood as an officer of the company you were ready to produce anyone whom we desired. Is not that the fact? I have been relying upon that.

MR. BECK: You furnished us with a list of officers you wanted us to produce. We have not only produced them but all other information in our power. As to Mr. Fields, Mr. Fields is not in the city. He is in very ill-health, as one witness has already testified from the stand, and as we can abundantly sustain by other expert testimony, if you desire. As to Mr. Fields, if you disregard the question of his health, we remit you to your legal remedies. Subpœna him.

MR. HUGHES: I understood at the outset, and it is fair to the Committee to state, that when we sent over the subpoenas to the Mutual Life Insurance Company, we were informed, as I am advised, that they would be very glad to waive the service of subpoenas and produce anyone connected with their company upon request, and I am also informed that the secretary wrote a letter to that effect. That is before the letter that you hold in your hand.

MR. BECK: I know, but after you had made a general request you wrote us a letter, or rather we wrote you a letter, in which certain specific names were mentioned. All of them are ready to be produced, and many of them have been.

THE CHAIRMAN: Well, gentlemen, allow me to suggest that this is a matter for adjustment between yourselves.



*Testimony of Walter R. Gillette*

MR. HUGHES: Undoubtedly.

THE CHAIRMAN: And the Committee has power to subpoena the witness if he is not produced upon request, and we will adopt what course we are advised upon that point.

MR. HUGHES: Certainly. I merely desired to say when we did send over subpoenas I am informed we received a general letter offering to produce any person connected with the company and after we inquired and found certain individuals were out of town at the time and coming back naturally at the close of the vacation season, and certain gentlemen that we desired at once were here, that we desired to have attend, we asked information as to when certain other people could appear. If Mr. Fields does not fall within the class mentioned and we desire to have him appear, of course we understand that if we want the attendance of any witness we have the right to subpoena him, and you are obliged to comply with the subpoena, if not with that request.

THE CHAIRMAN: Is that all for the morning session?

MR. HUGHES: Yes.

THE CHAIRMAN: Before announcing the noon recess, it is only to proper to say that a noon dispatch advises that the Speaker's condition has changed for the worse and that his life seems to be ebbing away slowly. If Mr. Nixon should not survive, an adjournment of the work of this Committee would be necessary. If that should occur during the noon recess or at any other time it will necessarily interrupt the work of the Committee and the sessions of the Committee for the few days that will be occasioned. The Committee will now take a recess until 2.15 o'clock.

AFTER RECESS.

MR. HUGHES: Mr. Richard A. McCurdy.

RICHARD A. McCURDY, called as a witness, being duly sworn, testified as follows:

BY MR. HUGHES:

Q. Mr. McCurdy, what is your age? A. I will be 71 in January.

Q. You are the president of the Mutual Life Insurance Company? A. I am.

Q. Are you also a member of the Bar of this State? A. It is forty years since I opened a law book, or more, but I presume I still am.

Q. When were you admitted to the bar? A. I think about the year 1856.

Q. How long did you practice law? A. For about nine years, if I recollect rightly.

Q. When did you first go into the insurance business? A. Well, I got into that quite accidentally. I was elected attorney to the Mutual Life Insurance Company in 1860, and continued as such for about five years, and then there was a contingency arose in the affairs of the company and I was asked by the president at that time if I would accept election as vice-president temporarily until the Board could look around and find a person to fill the position permanently. I said I would do so simply to oblige, and with no intention at that time whatever of leaving my profession; but I got the halter around my neck and I never could break it.

*Testimony of Richard A. McCurdy*

Q. Then you were vice-president of the Mutual Life Association for a long number of years? A. For twenty years, a little over twenty years.

Q. Were you connected with any other insurance company? A. Yes, I was, for a while.

Q. What company was that? A. It was called the Widows' and Orphans' Benefit Life Insurance Company.

Q. What was your connection with that company? I was counsel, and subsequently, when the company was wound up, I assisted at the interment, I suppose.

Q. Who was the president of the Widows' and Orphans' Company? A. The first president was the Hon. Lucius Robinson, who had been Governor of the State of New York, and upon his leaving the Gubernatorial office he accepted the presidency of that company. He continued so for some three or four years and then when his health gave way he returned to Elmira, and the then secretary of the company, who was Mr. Charles H. Raymond, was elected to the presidency.

Q. How long was Charles H. Raymond the president of the company? A. Well, the company went out of existence I think, along in 1871, about that time, perhaps 1872, and Mr. Raymond was president of the company as long as it—from the time of his election, I have forgotten the date of it, until it went out of business.

Q. Did that company have any relation to the Mutual Life Insurance Company at any time? A. No, not directly.

Q. Was there any indirect connection or business between them? A. The only indirect connection was the fact that some of the directors, I think, were directors in that company and the actuary of the Mutual Life, at that time Mr. Shepard Homans, who is no longer living, he was the consulting actuary of the Widows' and Orphans'. There was no

*Testimony of Richard A. McCurdy*

corporate connection of any kind, no investment in its stock, or any tie of that nature.

Q. When Charles H. Raymond no longer acted as chairman of the Widows' and Orphans' did he become connected with the Mutual Life Insurance Company in any way? A. I don't know how long the interval was, but I think Mr. Raymond was appointed general agent of New York for the Metropolitan District in about 1883. There was some interval, I believe, between his leaving the affairs of the Widows' and Orphans' and going into the service of the Mutual.

Q. Mr. Raymond's first partner was a Mr. Little in the general agency for the Mutual Life in the Metropolitan District, was he not? A. I am trying—there is no doubt about the fact, but I am trying to fix the date. His first partner in the service of the Mutual Life was Mr. Little, yes.

Q. Had Mr. Raymond had the general agency of the Mutual Life before he took Mr. Little into partnership? A. No.

Q. What, if any, relationship was there between you and Mr. Little? A. Mr. Little was my wife's brother.

Q. And how long did that partnership between Mr. Raymond and Mr. Little continue? A. You have got it wrong end foremost, if you will excuse me for saying so. Mr. Raymond became the partner of Mr. Little at the time when Mr. Little was the general agent of the Mutual Life Insurance Company, the firm being previously Rhodes & Little, and Mr. Rhodes having died, or something of that kind, I have forgotten now, when Mr. Little took Mr. Raymond into partnership with him.

Q. Mr. Little is dead, is he not? A. He died—he died some years ago.

Q. How long did the partnership between Mr. Little and Mr. Raymond continue? A. Well, I really don't think I could answer that without referring to memoranda. Oh, I

*Testimony of Richard A. McCurdy*

should say, possibly ten years, but that is subject to correction. I will refresh my memory if you desire to press the subject further.

Q. Who succeeded Mr. Little as Mr. Raymond's partner?

A. After an interval Mr. Robert H. McCurdy.

Q. How long an interval was that? A. Well, that I could not say.

Q. Who suggested to Mr. Raymond that Mr. Robert H. McCurdy should become his partner? A. I could not say.

Q. Did you? A. I could not say. I have not the faintest idea.

Q. You had nothing to do with it? A. Oh, I could not say that, but I mean to say candidly, at this length of time I have no recollection about how the matter came up at all.

Q. Then, after Mr. Robert H. McCurdy took up the superintendency of the foreign business of your company, I understand that Mr. Thebaud took Mr. Robert H. McCurdy's place or a place in the firm of C. H. Raymond & Company? A. Quite so.

Q. What had Mr. Thebaud's connection with your company been prior to that time? A. He had been a clerk in the office at Newark of Mr. George Raymond who was the general agent for the State of New Jersey.

Q. The by-laws, Mr. McCurdy, give to the president of your company a very wide control over the management of its affairs. Was that always so, were these same by-laws substantially in operation prior to your becoming president of the company? A. No, I think—there have been two or three editions of the by-laws printed in the last twenty years, I believe, and when there have been amendments made from time to time upon various occasions, they have just been noted in the copies held by the executive officers until they got to be sufficient in number to make the printing of the new editions more convenient.

Q. Do you know whether the provisions of by-law 11 as to the powers of the president have been changed since you became

*Testimony of Richard A. McCurdy*

president of the company? A. I think they have been substantially that.

Q. I did not quite catch that. A. They have been substantially that, I say. There may have been some verbal changes, but nothing affected the general character of it.

Q. Do you recognize that under that by-law you have the right to suspend or remove any general manager or agent? A. I do.

Q. And in practice has that by-law been construed to place within your control the contract with general agents? A. I am not aware that it ever has.

Q. Have any contracts with general agents been made except under your authority as president of the company? A. They have all been made by—without my authority, without my definite authority.

Q. The contracts with C. H. Raymond & Company have been introduced in evidence. Have you been conversant with the terms of those contracts? A. I cannot say that I ever have been.

Q. Have you at any time taken occasion to ascertain at what expense to the company the business of the metropolitan agency was conducted? That has appeared in the quarterly and semi-annual and annual reports submitted to the directors at their meeting, and has been substantially at the same rate of expense as the other business of the company cost it.

Q. Well, do you mean by that to suggest that any other general agent of your company has had as favorable terms as C. H. Raymond & Company? A. Yes, I do.

Q. What other general agents have had the same rate of commissions? A. I cannot specify them because the agency management has not for a great many years been under my charge, but I know as a matter of general knowledge that different contracts, or rather different rates of compensation are paid and have been paid to different general agents all over the country consistent in some cases upon the amount of business produced by them,

*Testimony of Richard A. McCurdy*

governed partly in other cases by the statistics which some of our people get out for the purpose of enabling us to fix rates of compensation, statistics with regard to density and sparseness of population and amount of wealth per capita and all that sort of thing, so that the rate of compensation paid to any general agent would not have any definite relation at any time to that of any other agency with the exception that one might be more and one less according to circumstances.

Q. Are you not aware that C. H. Raymond & Company have been receiving a higher rate of compensation than any other general agent or company? A. No; I am not.

Q. Are you able to mention any general agents of any insurance company in the City of New York receiving as high a rate of compensation as C. H. Raymond & Company? A. What do you mean by the rate of compensation, the rate of commission on the policies?

Q. Yes, on the premiums. A. On the premiums?

Q. Yes. A. I can't directly, because I don't know the rate of commissions allowed by other large competing companies, but I do know this, that in the City of New York other companies are able to overbid in many cases for solicitors and subordinate agents—they are able to overbid the general agents of the Mutual Life Insurance Company.

Q. What do you mean by overbid? A. Allowing them higher rates of subordinate commissions, or guarantees, or salaries, whatever the case may be.

Q. You mean in obtaining the services of agents? A. In obtaining the services of sub-agents.

Q. Without reference to what the sub-agents themselves actually get, do you know of any case of a general agent getting as favorable rates as C. H. Raymond & Company? A. I want to remark, Mr. Hughes, that the rates to any general agency are not especially under my supervision.

*Testimony of Richard A. McCurdy*

Q. That is—— A. If you will allow me to finish.

Q. Go on. Pardon my interruption. A. When I was vice-president of the company for some time the agency system was under my control. When I became president, twenty years ago, it ceased to be under my supervision, and has not been for twenty years. It has been managed by other executive officers. Personally I have not participated in it, so when you attempt to cross-examine me as to what my knowledge of rates of commission is, hither and yon, why I can't answer you. I want to explain the reasons.

Q. Certainly. Now, will you state what you, as president, under the powers conferred upon you by the By-Laws, have actually done in supervising and in insuring the efficiency and economy of the agency department of your company?

THE WITNESS: Have you got that little book there, Mr. Beck?

MR. HUGHES: Shall I hand it to him?

MR. BECK: Thank you, sir.

THE WITNESS: No, it is the other little book, Mr. Beck.

(Book handed to witness.)

I thank you. If you will allow me to explain in my own way. I think in order to arrive at a clear understanding of what my official duties are, and the obligations resting upon me, I ought to go back a little and explain somewhat the situation of the Mutual Life Insurance Company in its office and administrative force, so that if I am under a respon-



*Testimony of Richard A. McCurdy*

sibility that I have not lived up to, why it may be clearly shown; otherwise, if I am not charged with it, why no improper surmises may be based—maybe. Now, I have in my hand the thirty-fifth annual report of the Mutual Life Insurance Company of New York, printed in the year 1878, Frederick S. Winston, at that time, being the president of the company. In the annual report, as I say, of the trustees to the policyholders, there is this statement, referring to the company: "It transacted business under one corporate title and one executive head. If the amount of funds which it controls and manages were distributed among fifty different corporations with capitals of from one to two millions of dollars apiece, each of such companies would be deemed a powerful financial institution, but the company in fact as at present administered, consists of several independent organizations under one executive management. For the information of such as may desire an account of the routine of the office the following details are furnished." Here then follows, which I will not detain either you or the Committee with, the routine. On Monday the executive officers meet together with the sub-committee of finance, and then they meet together later on with comptroller of the Real Estate Department. On Tuesday the executive officers meet the sub-committee on finance, and on Wednesday, at half-past ten, the Finance Committee meets, and on Friday and so on.

It then goes on to describe the different departments which constitute, as the reports call them, the semi-independent organizations: The Insurance and Agency Committee, the Insurance Department, the Financial Department exercises the functions of a loan and trust company, and had the care and management at that time of fifty-eight millions of dollars; the Department of Mathematics is administered by the actuary and two principal assistants and is charged with the

*Testimony of Richard A. McCurdy*

duty of thus and so. In ordinary cases it is governed by general rules, but in the calculation and distribution of dividends, it acts with the advice of the Committee on Insurance, and so on. Now, the Law Department is under the responsible charge of the company's solicitor. The Medical Department does thus and so. In the fortieth annual report of the Mutual Life Insurance Company of New York—of the trustees to its policyholders, Frederick S. Winston being president—

MR. ROGERS: What year?

THE WITNESS: 1883, it would be, I think. In 1883.

In a similar report, issued in 1883, to the policyholders, Frederick S. Winston being president, "As the business has expanded it has been found necessary, in order to secure efficiency and economy, to assign to several departments so much of the business as properly belongs to each. These departments are substantially as follows: An Executive Department, the Insurance Department, the Investment Department, the Law Department, the Mathematical Department, the Medical Department, the Actuarial Department, the Supply Department."

"The allotment of the details of the company's business to appropriate departments has proved of very great value."

Then there is here, substantially a repetition of the description of the functions, exercised by the different departments, to which I called attention in the report of a few years before. Now, that was the organization of the company as I found it when I succeeded to the presidency. It was not a company of any one man power, as has been stated elsewhere at any rate, if not here. It had been an organization by the different functions exercised in

*Testimony of Richard A. McCurdy*

the administration of the company into almost automatic bodies acting in the sphere of a general supervision, harmoniously, each one conducting its appropriate share of the business as it saw fit, provided it didn't clash with the charter of the company, or the general rules laid down for the administration of those departments. It was substantially—I won't say substantially, because perhaps that is too strong a word, but it was in some respect analogous to the Government of the United States of America, with its different states, different officials, different Governors, forming its own functions within its own territorial limits, and yet tied together through the functions of the National Government. I say this, if you will excuse the length to which I have gone in my remarks, that when I seem to hesitate in answering questions as to what I did here and there, and what my responsibilities and duties were, you may realize the fact that I am not, and never have been, charged with any specific duties or responsibilities, for any particular department, but the previous administration of the company, the president of the company who had been president for thirty odd years, has stated in his report to the policyholders, had found a different system of management conducive to the welfare of the company, had carried it out, and established it some years before I succeeded to the presidency, and that that has been followed ever since.

MR. PRENTICE: Would you speak just a little louder, Mr. McCurdy?

THE WITNESS: I feared I was speaking too loud.

Q. Now, to recur, will you state just what you have done yourself to secure the efficiency and economy of the agency department of your company? A. I have been in the discharge of my duties as president of the company at its office practically every working

*Testimony of Richard A. McCurdy*

day, for five days in the week at least, from half-past nine in the morning until a quarter before four in the afternoon, and I devoted all my energies, both intellectual and physical, to the service of whatever—or to the performance of what duty was demanded of me at the moment, as it came one after the other. I have given to it my best attention.

Q. Have you examined into the rates of commissions paid general agents? A. No, not to any great extent, excepting as these things have been brought before me at the close of the quarterly period or the end of the year.

Q. Have you examined into the profits made by the general agents? A. I have not.

Q. Have you taken any steps to ascertain whether the general agents were making more money than they should make? A. That has been my contention with regard to all of them for a great many years, and I have been seriously at work for a number of years to change that relation of a profit, as you choose to call it, to the business of the company, but as to the amount of profit, excepting from general observation or general impression that any general agency can make out of the company, that is practically a closed book to every officer of the company.

Q. Why so? A. Because the private books of an agency firm who have a contract for the distribution of books from any manufacturer, commission agent, is nobody's business except their own. They don't belong to the company. They have the private partnership books of the agency, and it is only by inference or deduction of a variety of things that one even gets an idea of what the probable profits of a particular general agency may be.

Q. Were you desirous of having that idea? A. I have been distinctly.

Q. Did you ever ask your son, Robert H. McCurdy, what the profits of C. H. Raymond & Company were? A. I never did.

Q. Did he ever tell you? A. He never did.

Q. Did it ever occur to you that you were in a position to find out whether C. H. Raymond & Company were making more money than could properly be paid to a general agent in the City of New York? A. I don't believe anything of the kind.

Q. But you had no data upon which to reach a conclusion? A. Nothing but what I have said, general observation and knowledge of the business.

Q. Then why did you say that you didn't believe anything of the sort? How could you have a belief if you knew none of the facts? A. Well, I have the general knowledge, I suppose, of an intelligent man and the right to form a general opinion without the knowledge of specific facts that are not within my purview.

Q. I find from the statement that has been furnished here that the net receipts of C. H. Raymond & Company in 1896, after paying sub-agents, and all expenses of their business, amounted to \$198,000 and in 1897 to \$189,000 and in 1898 to \$195,000, in 1899 to \$228,000. Do you regard it as proper that a general agency of a mutual life insurance company in the City of New York should be able to make net \$200,000 in the course of a year? A. Is that your question? It makes not the slightest difference to the company whether one general agent in the city of New York made \$200,000 or twenty general agents in the city of New York made \$1,000 a year. That would be the result of doing the same amount of business. They were paid for on the percentage of the business that they got, and it was simply a question in the first place of the amount of business that they turned into the company for which they were paid. If they had not got the business they wouldn't have got the profits. In the second place it was a question like any other merchant, of what his business cost him, a question of what he paid for clerk hire and what he paid for procuring his business, all of it being governed by the sagacity, economy and general knowledge of the business of the man himself. For the company to pay that amount of commission for that

*Testimony of Richard A. McCurdy*

amount of business was eminently proper, and it didn't make a particle of difference whom they paid it to.

Q. You are aware, of course, that the amount of profit derived by the general agent is dependent upon the percentage of commissions, original and renewals, that he is entitled to under his contract, less, of course, the expenses that he incurs in doing his business? A. Less, of course, that he incurs in doing his business, but the net amount of profit, that is a very important element, a very important thing; the most important element.

Q. You are aware that the expenses of the general agents consist in the maintenance—that is, as the metropolitan agency has been managed for many years—consist in the general expenses of his office and in the payments made to those who actually obtain the insurance? A. Well, I presume so.

Q. And the general agent's net profit is what remains, according to his rate of commission, for his general management and supervision of that business? A. After deducting his expenses.

Q. Now, I recur to my question whether you deem it proper to pay a general agency for the management of business in New York City a rate of commission as will enable them for a period of years to net, after paying all expenses and commissions to the agents who obtain the business, \$200,000? A. The answer to that is, as I take it, as I said before, that it makes not a particle of difference to the company whether it pays that gross rate of commissions to one man or to twenty men; it is all a matter of percentage upon the business. But when you come to the blunt fact of whether this general agent—whether you ascertain, as I said, by general knowledge, whether this man in this city or State or what not is really making more than he ought to out of the business,

*Testimony of Richard A. McCurdy*

then comes the question what are you going to do about it. I have been at that for twenty years.

Q. Well, how did you go at that with C. H. Raymond & Company? A. Why, the last that we did—I am speaking to you now not from what—not as to what I am chargeable with as president of the company; I am speaking to you as to what was done by the general manager of the company in the discharge of the functions of his office, but I can't pretend not to and don't want to pretend to know what is going on where things really come under my observation.

Q. You understand, of course, that the general manager is to perform such duties as may be designated to him? A. Yes.

Q. By you as vice-president? A. Yes.

Q. He was directly subject to executive control? A. Yes.

Q. Well, now in your desire to look into this matter and do the right thing by the policyholders of your company, will you explain why you did not endeavor to ascertain from your son, who was in the firm of C. H. Raymond & Company, whether their contract was more profitable than it should have been? A. Mr. Robert McCurdy left the firm of C. H. Raymond & Company a dozen years ago—eighteen or nineteen years ago. He has not been in it since.

Q. Well, while he was in it did you take any steps in the direction I have stated? A. Oh, that is a good many years ago.

Q. You don't recall whether you did or not? A. No, no.

Q. Now, when Mr. Thebaud, your son-in-law, was a member, or became a member of that firm, did you ever ask him what the profits of C. H. Raymond & Company were? A. I never did. I hadn't any right to.

Q. Why not? A. I had no more right to ask—no more legal right to ask a firm of general agents of the Mutual Life

*Testimony of Richard A. McCurdy*

Insurance Company what the net profits are than I have a right to ask you what your profits are.

Q. Don't you think when the question of the renewal of a contract with a firm of which your son-in-law is a member comes up that you ought to ascertain whether the rate of interest is higher than it should be? A. I haven't—as I told you, I haven't been in charge of that part of the business for twenty years.

Q. But it was a matter of which you could have taken charge at any moment? A. Provided I had nothing else to do.

Q. Yes. It is a matter to which you felt deeply, did you not, this matter of the expense to which the company was put in securing new business? A. I have always been endeavoring to reduce the expenses of the business to proper limits and to those which were justified by the amount of business produced.

Q. Do you know any more important question before insurance companies to-day than to reduce the expenses of their management? A. I think it is a very desirable thing to do, but I think it is one which all life insurance companies are trying to do.

Q. And you know that the larger part of their expenses is the expense of getting business? A. Why, I presume it is.

Q. And you know that the larger part of the expense of getting business is the commissions paid to agents? A. I presume it is.

MR. PRENTICE: Mr. Hughes, will you ask Mr. McCurdy to speak a little louder? I am unable to hear you, Mr. McCurdy.



*Testimony of Richard A. McCurdy*

THE WITNESS: I have a little cold and I have a little hoarseness, Mr. Chairman. I must ask to be excused.

MR. ROGERS: May I ask a question?

MR. HUGHES: Certainly.

BY MR. ROGERS:

Q. Mr. McCurdy, does not the company require the agents to account to it for all premiums collected? A. Why, certainly.

Q. And in that account don't they state the amount of commissions which they deduct under their contract? A. Undoubtedly.

Q. Then how do you justify your statement that as an officer of the company it was no part of your business and you had no right to inquire what commissions, either gross or net, which they received, amounted to? A. Why, because the most we allow them, we will say twenty per cent., for purposes of illustration—when they account to us with \$100 collected they credit themselves with \$20. That is all there is to that. They don't tell us what they have done with the \$20. That is a matter for them to settle and we have no interest in that.

Q. You distinguish between the gross and net sums? A. Exactly. We allow them a gross sum and don't know what their business cost them, and we have no right to inquire. It is none of our business.

Q. You recognize the fact that all their profits, either gross or net, come out of moneys collected from the policyholders? A. But if they spend all that twenty dollars in getting the business they would not make it.

*Testimony of Richard A. McCurdy*

Q. But you lose my point, Mr. McCurdy, that is that the money which they collect and all their profits, either gross or net, come from moneys collected from the policyholders, do they not? A. Come from premiums collected by them.

Q. And those premiums are paid by the policyholders? A. To the agents.

Q. To them under the contract with the company? A. Yes.

Q. Now, then, as the custodian and the guardian of the welfare of the policyholders, is it not, not only your duty, but your paramount duty, to inquire whether the policyholders are being charged excessively, or whether the agents are deriving too large profits from that business? A. The first point, yes. It is my duty to inquire whether the agents are being paid too much. But whether they are deriving too large profits or not, that is not my duty, and I do not know, excepting by the general observation that comes to everybody who makes up his mind that his business is costing him too much, and when he makes up his mind that a business is costing him too much, then he has got to go to work and take up the entire question of the outstanding contracts, the length of time through which they run, and the cost to the company to reconstitute the business on some other and more economic plan.

Q. In the light of the facts recently revealed, what do you say as to whether or not the business was costing the policyholders too much? A. I say this, that that depends altogether upon circumstances.

Q. Taking into account all these circumstances? A. It depends altogether upon circumstances. When I was elected president of the company I very soon came to the conclusion that the business of the company at large was costing us too much; that we were paying too much to general agents, who did not expend that portion of their commissions allowed them by the company, getting business or keeping it on the books of the company—that they

*Testimony of Richard A. McCurdy*

were not expending the amount that they should do, but were keeping the money back, and to the disadvantage of the company, and it early attracted my attention, and I say it has taken about eighteen years to get the business around to the point where two years ago a general manager could notify the firm of C. H. Raymond & Company that on the 31st day of December, next, the company would take over all that business to itself, and thereafter conduct at what—when it would know what the real cost of the business was, and save as much money as could be saved. That has been done in nearly all the agencies of the company. It could not be done suddenly—it has been done by a regular systematic progress year by year until now, our business has about five agencies, of which the Raymond agency is one, which are not converted, and in which the entire business does not belong to the company, and when it can tell how much it cost, which it could not do under the old agency system.

BY MR. BECK:

Q. As you desire light upon that question, may I suggest the inquiry to the witness, whether or not the rates of commissions paid general agents are not more determined by the rates of commissions paid by other companies to general agents, with whom they must necessarily come into competition, rather than by the question of the net profits? A. Oh, that is obviously so. The cost of the business, as I say, the expense of getting the business is very much determined by the competition that is met, which we meet from other companies.

BY MR. ROGERS:

Q. Following that suggestion, one of the most important, and

*Testimony of Richard A. McCurdy*

one of the first duties is to ascertain what other companies are paying, is it not? A. Yes, we try to find out.

Q. And did you ascertain whether any other company was paying as favorable a rate to agents as this contract with Raymond & Company? A. Well, as I have told you, I have not been personally engaged in the agency management of the company for upward of twenty years, but as a matter of general knowledge, I know that the commissions allowed by the Mutual Life Insurance Company have not been sufficient in many cases to maintain our agents in our own service, and that they went to other companies because they could get more from them.

BY MR. HUGHES:

Q. Now, we are not speaking for the moment of other cases, we are speaking of the case of C. H. Raymond & Company, and if you desire to add anything to what you have already said with regard to the competition in the City of New York, which required you to pay C. H. Raymond & Company the rate of commission proved, I will be glad to have you state just what the competition was, and what you know about it. A. I have not any desire to. I have already remarked that the agency business has not been under my particular observation for a great many years.

Q. Is it not a fact that general agents are required to submit trial balances at the end of the year in order that your company may judge of the course of their business? A. I never heard of it.

Q. Is it your judgment that it would be suitable to require such submission? A. Well, I have never given it any consideration. It would have to come up at the time when you are making a new contract with a man, that would have to be put in as one of the clauses of the contract that he should do it.

Q. Do you have any idea as to when new contracts have

*Testimony of Richard A. McCurdy*

been made with the firm of which your son-in-law was a member? A. Not the slightest.

Q. You never knew when a new arrangement was about to be made? A. Not the slightest.

Q. Did you ever have any interviews with Mr. Thebaud in regard to the course of that agency business? A. Not with regard to the course of it, and not with regard to the financial part of it, no. I may have asked him from time to time how the business was turning out, and things of that kind, and how it was going on. Those things would become apparent, however, at the end of the quarter, or at the end of the yearly statement.

Q. Have you ever known what Mr. Thebaud's interest was in C. H. Raymond & Company? A. I never have.

Q. Have you known how his interest in C. H. Raymond & Company has varied, or increased? A. I never have.

Q. It appears here in evidence that last year Mr. Thebaud's interest in that business netted him in cash \$147,000, was that a surprise to you? A. It has been a surprise to me to know the facts, because I did not know anything about it one way or the other.

Q. Did you have a notion of it? A. Never had a notion of it.

Q. You had reason to observe, did you not, that Mr. Thebaud was making a good deal of money? A. In what respect?

Q. Did you observe the natural evidences of prosperity in his case? A. I had no doubt of it.

Q. Great prosperity, it appeared to be, did it not? A. No.

Q. Did not you feel any special responsibility to the policy-holders of your company by reason of the fact that he was your son-in-law? A. Not more than I would if he had been somebody else's son-in-law.

*Testimony of Richard A. McCurdy*

Q. Did you feel any sensitiveness with reference to that and a desire to ascertain that his contract should be particularly free from criticism, or the contract of his firm, I mean?

A. So long as Mr. Thebaud's firm was rendering good service to the Mutual Life Insurance Company, so long as it was pro rata to the business done, and not excessively compensated—I beg your pardon, my mind wandered from the question, will you repeat it?

Q. (Repeated.) A. Well, I have not been lying awake nights for twenty years or more thinking of one particular subject in that company. I feel a sense of responsibility and obligation to my Board of Trustees and to the policyholders of the company everywhere, to do my duty by them as well as I know how every hour of my life. And one subject and another comes up before me and to every one of them I endeavor to give the same performance of duty under the same sense of obligation.

Q. I understand you make two points. The first one is that a general agent should have a sufficient margin over his expenses properly to compensate him for the work he has to do, and the second is the presence of competition in enforcing the payment of certain rates of commission to general agents. Do those two points embrace all you have to say with regard to the fixing the compensation of general agents?

A. Well, what do you want to get at, plainly?

Q. I want to get at how you justify letting C. H. Raymond & Company get \$200,000. That is what I want to get at. A. Very well. Then I answer that as I have said before. If C. H. Raymond & Company, under the established contracts with the company which they had, and which were not excessive for the amount of business produced, happened to make that amount of money it did not make any difference

*Testimony of Richard A. McCurdy*

to the company whether it was divided among two people or forty.

Q. You say they were not excessive? A. Yes.

Q. Which is the whole point? A. Yes.

Q. In the first place, if there was no competition requiring the payment of rates of commission to C. H. Raymond & Company, which would result in their getting \$200,000 a year, do you regard the fact that they would receive that amount as indicating an excessive rate? A. I do not quite get your point exactly, with your comparison. It does not make any impression upon my mind. I do not quite understand you, Mr. Hughes.

Q. Well, apart from competition, is a rate of commission which gives a general agent having charge of the Metropolitan District \$200,000 a year net in your judgment an excessive rate? A. If there were no other reasons to justify it. If there were no other reasons to justify it, then it would come up as a matter for serious consideration.

Q. If there were no other reasons to justify it, would it be an excessive rate? A. I cannot say without I knew what the other reasons were that may come up.

Q. We will take up the other reasons separately, but if there were no other reasons is that an excessive rate? A. The rate of commissions depends upon the necessities of business. The necessities of getting the business in the City of New York in competition with the other companies, and if, as I have stated before, it was the fact that many of our agents went to other companies because we could not hold them, as it is called, because other companies paid them more than we could pay them, there is no foundation for saying that the rate allowed by the Mutual Life Insurance Company was in excess of the rate paid for that business generally in the

*Testimony of Richard A. McCurdy*

City of New York in what you might call the market for insurance agents.

Q. Did Charles H. Raymond & Company ever threaten to leave you to go with another company? A. I don't think Charles H. Raymond would leave me for any consideration in the world.

Q. Did Robert H. McCurdy ever threaten to leave you to go with another company? A. That is the same answer. I don't think he would ever leave me for any reason in the world.

Q. Did Mr. Thebaud ever threaten to leave you to go with another company? A. I give you the same answer.

Q. Has the competition of any other company had any effect upon the rates of C. H. Raymond & Company? A. Oh, you are wandering into all sorts of fine distinctions and analyses. Why, I cannot match you in fencing wits, and don't want to try.

Q. I am very glad to have you say that, although I know very well if it were a fencing match, I should have the worst of it, but it being a desire to get at the facts it is a very simple matter—  
A. I cannot answer as to all sorts of hypothetical questions, if conditions may or may not be the way you put them, and about things that I have not given any particular attention to in twenty years, and it is really putting me in the position of attempting to match my wits against yours, and that contest I respectfully withdraw from.

Q. And I, too. Now, let us get at something which is painfully concrete, and not at all hypothetical. It appearing that C. H. Raymond & Company or the members of that firm, had not expressed a desire to leave your company and you were able to have the advantage of their services on the payment of reasonable compensation, was there any fact in that case, any competition on the part of any other company which determined the rate of commission paid to them? A. Why not to get away their services from us, but to get away the services of other agents, by



*Testimony of Richard A. McCurdy*

whom they procured the business. They had hundreds of agents.

Q. In other words, the competition was the competition which would draw away their sub-agents, and therefore you must pay C. H. Raymond & Company enough in order that they could hold their sub-agents, that is the point? A. Undoubtedly.

Q. Not that there was competition by which C. H. Raymond & .. Company should leave you? A. Not at all, in the slightest.

Q. Now, then, let us look at the competition and its effects with reference to sub-agents of C. H. Raymond & Company, after they had met all that competition, and after they had paid whatever rates were necessary to secure an increasing business, after they had met all the expenses of their office, they net for themselves \$200,000 a year. Now, please address yourself to that question and tell me what basis there was for giving them a rate of commission which would enable them to meet all competition existing and net \$200,000 a year? A. Because substantially the conditions of the business throughout the whole United States demanded practically a certain rate varying slightly owing to local conditions here and there, and the general experience of the company was such that it was required to pay it. It is not a system, as I have said to you before, it is not a system which I favor and we are substituting now the managerial system for the general agency system.

Q. Do you not know that you had a form for commission, a printed form? A. I believe there was.

Q. That is for agency contracts? A. I believe there was.

Q. Don't you know that Raymond & Company had special rates? A. No.

Q. That has never been brought to your attention? A. No.

Q. Are you under the impression that all the other general agents of your company were getting as good rates as C. H. Raymond & Company? A. Practically, all things considered, as I understand it.

*Testimony of Richard A. McCurdy*

Q. What is involved in that "All things considered?" A. I mean to say, as I understand it, the general manager having charge of the contract with the agencies makes whatever contract with different general agents depending upon conditions which he is supposed to be practically familiar with, either in Chicago, or Boston, or New York, and that depends upon his own judgment of making those contracts. That they may vary more or less at various places I think it is quite possible. I have not seen one of those contracts, as I have said, for a long time.

Q. You do not make uniform rates for all your agents, do you?  
A. I think not.

Q. You suit your rates according to the conditions? A. Apparently. Am I right in that?

MR. ROBERT H. McCURDY: Yes, sir.

Q. And in the City of New York you fixed your rates with regard to the conditions here? A. I judge so.

Q. Now, once more, what was the conditions in the City of New York which required you to give a rate of commission to C. H. Raymond & Company by which they could meet all competition and pay all expenses and net \$200,000? A. You had better ask the general manager.

Q. Do you know of any condition? A. I did not make any contracts.

Q. Do you know of any such conditions? A. I am not responsible for the contracts.

Q. Do you know of any such conditions? A. I have never given the subject any such consideration, it is not within my province.

Q. As an insurance man, do you know of any such conditions? A. My dear sir, I have tried to explain to you that my duties are of a very general character.

*Testimony of Richard A. McCurdy*

Q. That may be an explanation, but the fact of your knowledge depends upon whether you do or do not know. A. Do not know what?

Q. Of conditions which existed which required the payment to C. H. Raymond & Company which will enable to meet all competition and net \$200,000 a year? A. I do not know of the conditions which exist with regard to the City of New York or anywhere else. Never tried to, because it never came within the obligation upon me that I should know it, in the discharge of my official duties.

BY MR. BECK:

Q. Would you mind asking the witness whether the competition is more or less keen in the City of New York than elsewhere?

MR. HUGHES: Yes, I should be very glad to ask him that, but I do not want his attention diverted again by the subject of competition among the agents who write the business, for my inquiry relates to a payment net, after all that competition has been met, but if that is clearly understood by the witness, any observation he may make upon competition in New York I should be glad to have him make.

THE WITNESS: If you choose to ask that question, although it is suggested by the company's counsel, Mr. Beck—

BY MR. HUGHES:

Q. I should be glad to ask it. A. I don't know anything about it. It has not been in the particular field to which I

*Testimony of Richard A. McCurdy*

have devoted my attention for a great many years, and whether the competition is stronger in New York or not, as a matter of fact, those who are technically familiar with the business can answer better than I can.

Q. I see in the gain and loss exhibit, as printed in the blue book, last year your percentage of insurance expenses to the loading upon the premiums to meet such expenses was 109.34 per cent.? A. Yes.

Q. Are you able to state whether the insurance expenses had exceeded the loading upon the premiums in prior years? A. I am not. You had better ask the actuary about that.

Q. You don't know anything about that? A. No.

Q. Well, take a period of ten years back, do you know how frequently, if at all, the expense of doing your business had exceeded the loading upon the premiums to meet it? A. No.

Q. Well, is not that a very important subject of executive inquiry? A. That is within the jurisdiction of the agency department I have——

Q. Do you know of any more important question that you as president of the Mutual Life could direct your attention to than that matter? A. I have had my attention once or twice drawn to that subject because of its being discussed in insurance periodicals and things of that kind, and the actuary has assured me that there was nothing in the fact of a temporary increase of the expenses over the loadings upon the policies that was in any way dangerous to the success of the company or improper.

Q. You would recognize the high importance of the fact that that should be temporary? A. Oh, that is a matter, as I say, you had better ask Mr. McClintock about all those questions. I am a layman in that as I am in the law.

Q. But you have for a great many years been president of the company, and in the insurance business for over 50 years,

*Testimony of Richard A. McCurdy*

and I would like to have you state what the consequences would be for a mutual-life insurance company, if its expenses for a period of years exceeded substantially the loading upon the premiums to meet such expenses? A. Oh, I cannot imagine what might happen if a great many other things might happen or did happen. I think, with all due respect, Mr. Hughes, that these questions are so thoroughly of an academic character that when you go into them I ought to have the right of suggesting that you talk with the expert on the question and not with a layman. I never pretended to be an actuary.

Q. No, I am not getting at the strictly actuarial questions. There are some matters I suppose which are almost axiomatic in life insurance which even lawyers might understand, apart from any relations with insurance companies. One of them is that in order to get a fund to pay the expenses of your business you add a certain amount to the net premiums which would be sufficient hypothetically to carry the insurance, to meet the expenses. Is not that so? A. Yes.

Q. And that addition is called a loading, is it not? A. Yes.

Q. And if the amount which you thus get from your premiums on a calculation that they will be sufficient to meet your expenses prove not sufficient the deficiency has to be made up in what way? A. From current assets, I presume.

Q. Yes, from your accumulations? A. From what is called general surplus, that is the undistributed profits for the time being.

Q. Yes, from funds which otherwise would be distributed among the policyholders? A. Might or might not be.

Q. Well, according to whether they were or were not divided? A. They might or might not be in the dim distant future.

Q. You recognize the fact that a mutual life insurance com-

*Testimony of Richard A. McCurdy*

pany could not permanently continue to spend money in excess of the loadings upon its premiums? A. Well, I should think it would be very unwise to, permanently.

Q. And therefore very important for you as the president to know whether this matter is a temporary one or not? A. It would be important for me as president of the company to take the advice and opinion of my actuary on that subject, and if my actuary assures me that the conditions justify it, to place my reliance upon that expert opinion which has been furnished to me by my Board of Trustees as my authority and assistance in all such matters, and to be guided by it as I should be. I have never overruled one of the heads of the executive departments in my life.

Q. The actuary has no control over all expenses of your company, has he? A. Indirectly, yes.

Q. In what way? A. If he should point out that the expenses of the company were unwise or injudicious or excessive in any department which affected the condition of the policy and the future of the company, if he should point out that, his advice and recommendation would be heeded instantly without a moment's hesitation.

Q. Has he never pointed that out to you? A. He never has.

Q. Do you know by inquiry from him or by any other way whether the percentage of loading upon premiums is about the same in your company as it is in other companies? A. I don't think that I have ever discussed that.

Q. Have you ever had your attention called to the fact that, with efficient management of an insurance company, one of the sources of a surplus would be a gain by having the expenses come within the amount of the premiums allotted to meet them? A. I believe so.

Q. Have you had it drawn to your attention that in the case of the Equitable and New York Life, according to their gain and

*Testimony of Richard A. McCurdy*

loss exhibits, there is such a saving? A. I do not think I have ever looked at the saving of either of those two companies.

Q. Now, you have said that you have not given special attention to the agency department or special attention to the actuarial matters which came to you on the advice of the actuary appointed by the Board. Have you given special attention to the matter of salaries? A. Not particularly of late years.

Q. Will you state what steps were taken when your salary was increased in 1901, I believe from the rate of \$100,000 to the rate of \$150,000 a year. First, who brought the matter up and suggested the increase? A. The committee on salaries.

Q. Did you request any increase in salary? A. I did not. I never requested an increase in my salary in my life.

Q. Did the committee formally bring it to your attention or did some individual first ask you whether you would be willing to have the salary increased? A. To the best of my recollection the committee on salaries were in session or had met and I was asked to come into the room and I went into the room and some other salaries were discussed, and when the question came to my own salary I was requested to leave the room and I did leave the room, and when I returned the gentlemen asked me what I thought about my own salary. I told them the matter was entirely in their own hands to do with it as they saw fit. There was a discussion took place with regard to it and they fixed my salary at that sum. I felt highly complimented and honored by the fact that it was so.

Q. Did you think that you had any right to take that salary? A. If I did not I should not be sitting here.

Q. What grounds were advanced for the increase? A. On what grounds, was that?

Q. \*Yes. A. The general—I do not want to sound my own praises, Mr. Hughes. I would much rather other people would do that for me. I took it as an indication of the appreciation put

*Testimony of Richard A. McCurdy*

upon my services by the Committee on Salaries, who were the mouthpiece of the finance committee and of the trustees generally, or they would not have done it.

Q. You would have continued to render services at \$100,000?

A. I should have continued to render services at whatever they paid me, no matter what they paid me.

Q. Did you interpose any remonstrance against the increase?

A. I certainly did not. I was not called upon to.

Q. Do you know of any president of any insurance company that receives as large a salary? A. I felt all the more complimented by the fact that I believed that there was no other life insurance president got so much.

Q. Did you think that you had any right to take money from the policyholders of the Mutual Life as a matter of compliment? A. I said that I felt complimented, but I did not say that I took it as a matter of compliment. I took it in recognition of what I believed to be the appraisal put upon my services by the Committee on Salaries who were the mouthpiece of the Board.

Q. Had your services increased, that is the time which you gave to the company or the character of the services, had they changed? A. I think all such services are cumulative in their nature. They must be until physical or mental infirmity overtakes one, the result of past efforts is a fair thing to be considered, the acquired familiarity, experience, breadth, all of those things are fair to assume, that you cannot tell where the increase in a man's efficiency or knowledge begins or just where it stops, but there must be a point in each case.

Q. BY MR. ROGERS:

Q. I wanted to ask if the Committee on Salaries is appointed by the President? A. No.



*Testimony of Richard A. McCurdy*

Q. By whom? A. It is appointed by the Finance Committee.

Q. From their own number? A. From their own number.

BY MR. HUGHES:

Q. Of course, you recognize the fact, Mr. McCurdy, that these committees are appointed by the Board of Directors?

A. Well?

Q. That is true, the trustees, as you call them? A. Yes.

Q. And the trustees are elected in the manner that has been fully discussed here? A. Is that your question?

Q. Yes. A. Oh, yes.

Q. I understand that there are running to you and to Dr. Gillette some 25,000 proxies from policyholders? A. I believe so.

Q. And that unless there was a very efficient movement among the policyholders you absolutely control yourself the election of the Board of Trustees? A. I understand that the policyholders of the Mutual Life Insurance Company to the number indicated by Mr. Granniss, whatever it was, have had sufficient confidence in the management of the company both to put their money into it and to pay their premiums to that management and to give that management their own proxies to represent them in the management of the company and election of trustees, and the same man who is annually paying his premium to the company when he chooses to, not unless he chooses to, signs a document authorizing certain people to represent him and to cast his vote, which he cannot cast himself because he lives in Peoria or Fort Winnepeg or somewhere else, and cannot get there himself. I do not know any other way to do it unless you disfranchise the policyholders of any company.

*Testimony of Richard A. McCurdy*

Q. Then, whatever way there may be to do it, as you say, the fact is that at present you and Dr. Gillette, by virtue of these proxies, are able to control the election of the Board of Trustees or Directors? A. No.

Q. Unless a larger number of proxies or a larger number of votes were cast in person by the policyholders? A. No.

Q. Why not? A. Because the board is divided, in the first place, into classes that serve four years each, and I could at no time elect more than nine men, who would only be one-fourth of the whole, and nobody else could elect at any one election more than nine men.

Q. And as you hold these proxies for a period of years—  
A. No, I do not.

Q. What? A. Every one of them is revocable at pleasure.

Q. Oh, of course, but they are good until revoked for the period allowed by the law? A. Yes.

Q. And as you hold them in this manner—and as a matter of fact the evidence is that there have been practically no revocations—

MR. BECK: And no use of them in twenty years.

Q. (Continuing.) And no use of them for the reasons that have appeared with reference to those who actually vote, the fact is that in the series of years you are able to elect the entire board? A. If there was any question in the mind of the policyholders at large of any mutual life insurance company that there was any serious ground for dissatisfaction, they would revoke their proxies and give them to somebody else without the slightest doubt. I have no doubt on that subject whatever. And the continuance of the policyholders in sending their proxies year after year is the best evidence you can have of their entire satisfaction with the manage-

*Testimony of Richard A. McCurdy*

ment of the company. They would not send them if they were not satisfied.

Q. Did you have anything to do with the increase of the salary of Mr. Granniss in 1902? A. In 1902?

Q. When it was fixed at \$50,000 a year? A. I cannot recollect whether I was present at the committee meeting or not.

Q. Was that suggested by you? A. I have no idea.

Q. Was it opposed by you? A. No, it was not opposed by me, certainly not, because I think Mr. Granniss is worth every dollar that he gets and more, too.

Q. Down to 1903 there had not been more than one first vice-president, had there? A. Well, you have the record there, whatever the record shows.

Q. Well, the record is merely a blank as to the years previous to 1902, and I was assuming from that that there had been no other first vice-president? A. Yes. I don't think there was a second vice-president down to 1903.

Q. That is a second first vice-president? A. Yes.

Q. How do you distinguish them as to matter of title? A. They are simply vice-presidents, and second vice-presidents. Each first is a vice-president and there are two vice-presidents.

Q. Well, what led to the election of another first vice-president about 1903? A. Will you allow me to look at that thing again and see if I can recollect? I am inclined to think, so far as the dates show—and the general manager is there and you can ask him whether I am right or not—I am inclined to think that the election of a second vice-president grew out of the fact that in the increase of the business the superintendent of the Foreign Department was transferred and made general agent and elected as trustee of the company.

*Testimony of Richard A. McCurdy*

Q. Yes, but my point is as to the election of Dr. Gillette as vice-president? A. Yes.

Q. In addition to Mr. Granniss? A. Yes.

Q. What led to that? A. Oh, the growth of the company. It is a gradual progress, as I have told you. At one time when I was vice-president I looked after agency matters and then when I was made president for some time Mr. Granniss looked after agency matters, and then it grew and grew so he hadn't time to attend to all this thing, and he had to give up the agency to somebody else, and it passed over to Dr. Gillette and by and by the business kept on growing, and, like the fabled calf, I think—I have forgotten where it was—and then Dr. Gillette's attention became more devoted to miscellaneous expenditures and it was necessary that somebody else should take that off of his hands, and in the natural order of promotion Mr. Robert H. McCurdy, who wasn't an officer of the company—it was necessary for somebody to take that—should be an officer of the company. He was formerly called Superintendent of the Foreign Department, practically, a general agent, paid on a commission, and it was arranged that he should give up the superintendency of the Foreign Department and take charge of the Agency Department, which Dr. Gillette was no longer able to attend to.

MR. BECK: Pardon me, Mr. Hughes, have you left temporarily the subject of the president's salary?

MR. HUGHES: Yes, only temporarily. What is the point?

MR. BECK: I was going to ask, as you have asked the president, under what circumstances he fixed the salary of himself—which he did not fix—I would like permission to spread

*Testimony of Richard A. McCurdy*

upon the record at this time, the growth of the assets of the company under Mr. McCurdy's administration, because it explains the obvious reasons—or at least the growth of his salary.

MR. HUGHES: We would be perfectly willing to put the growth of your company upon the record at the proper time, but as to the justification I would like to have Mr. McCurdy say so now.

THE WITNESS: I have said, Mr. Hughes, that I would prefer that somebody else should say for me what a becoming modesty inclines me not to say myself. If Mr. Beck has got a lot of statistics there that I didn't know he had got, that bear upon that subject, I would rather he would produce it than to produce it myself.

MR. BECK: I shall ask Mr. Hughes if he will hand it to the witness.

MR. HUGHES: I will hand it to the witness and be very glad to have the witness state whatever views he has with reference to the matter of his salary. If there is any relation between that and increase of business I would be glad to have that known.

THE WITNESS: It is rather distasteful to me, Mr. Hughes—

Q. Well, it should not be, Mr. McCurdy, because it is not a matter— A. Well, I am willing to since you put me in that position. I would rather not do it if I could avoid it.

Q. It is really a matter of justification more than anything

*Testimony of Richard A. McCurdy*

else, and I think you are not only entitled to, but that you should state fully upon what grounds you think you can take from the company \$150,000 each year.

THE WITNESS: I object to the word justification, because I don't think justification is necessary. But at all events, if you have put me in that position I am willing to state what, as I have said, I would prefer that you had brought out from some other witness. At the time that I acceded to the presidency of the company my predecessor was at the time of his death 81 years of age. I think that he was universally recognized in his prime as head and front of life insurance officials in this country, but he couldn't help getting old. The condition of the company at the end of 1893—I think it was, or 1894—at the end of 1894——

MR. BECK: 1884.

A. (Continuing.) 1884, I should say. Well, I haven't these figures accurately before me. I see you have got the book.

MR. BECK: Those figures are accurate, Mr. McCurdy. You can assume the accuracy of those figures.

THE WITNESS: I am going to begin a year before this. 1884. And substantially the condition of the company was that it had about one hundred and three millions of assets and three millions of dollars of what was called surplus in those days.

Q. At the end of what year? A. 1883; about one hundred and three millions and about three millions of surplus odd. You can verify.

*Testimony of Richard A. McCurdy*

Q. Proceed. A. During the previous ten years the position of the company, as was well known by insurance experts at that time, although we didn't publish it any more than we could help, was practically stationary, if not retrograding. During the previous period of ten years, if I recollect rightly, and I am speaking now without reference to exact figures, merely from recollection, as you brought up the subject that I haven't prepared myself for specially, but during the previous ten years the surplus one year had diminished about eight hundred thousand dollars, another year it diminished about seventy-five thousand dollars, another year——

Q. Pardon me. A. Shall I go on?

Q. Yes. A. The previous ten years the surplus had fallen off one year about \$800,000, another year about \$75,000, another year it had increased about \$25,000, and so it went. It was doing less business than either of its big competitors, as they then were and as they are now to-day, the Equitable Life and the New York Life. Its expense account was high for the reason then that diminished production had increased the constant charge, as I may call it, the expense account. In many respects, as I say, the company was practically stationary and I conceived it to be my duty, with the support and concurrence of the Board of Trustees, to do what a life insurance company is chartered to do—do business and to build up the company again into the position it had formerly occupied as the leading life insurance company of the world, and not allow it to drift into the position it was rapidly drifting into, when, as I said in one of my first addresses to my trustees, if things were going in that way very long, the only claim to distinction that it would have would be that it was the oldest of the American companies. With that premise I read from the list which Mr. Beck has handed me: In the year 1885 the assets of the company were one hundred and eight

*Testimony of Richard A. McCurdy*

million four thousand odd dollars. They increased the next year (this is the beginning of my administration) to \$113,000,000, the next year to \$118,000,000, to \$125,000,000, to \$135,000,000, to \$146,000,000, to \$158,000,000, to \$157,000,000, to \$184,000,000, to 202,000,000, to \$219,000,000, to \$234,000,000, to \$253,000,000, to \$277,000,000, to \$301,000,000, to \$325,000,000, to \$352,000,000, to \$382,000,000, to \$401,000,000, to \$440,000,000 at the end of 1894, and they are now, by the July statement of the company, about \$457,000,000. A gain in twenty years in the assets of the company of \$332,000,000, down to the time of—when was that date, the increase of salary? What year was that?

Q. 1901? A. 1901. During the eighteen years, up to the period when that increase in my salary was made, the company had increased its assets \$332,000,000—at the time—without going through, gentlemen, or Mr. Chairman, or Mr. Hughes, the details of this, in 1885 the total income of the company was \$20,214,000, at the end of 1904 it was \$81,002,000 or a gain in twenty years of \$60,000,000 of income every year. The total disbursements—while the income increased \$60,756,000 the total disbursements—and mind you that includes dividends and payments to policyholders and death claims, and everything of the kind as well as expenses—increased from \$17,359,000 to \$51,382,000, or a gain in twenty years of \$34,000,000, which was made up of payments to policyholders, less the current expenses of the company. The excess of the total income over total disbursements of the company in the year 1885, or again the total income over total disbursements of the company was \$2,855,000. Last year the gain of total income over total disbursements was \$29,620,253, or a gain in twenty years of \$26,000 a year. All payments to policyholders, that means the benefits distributed through the country at large by this Mutual Life Insurance Co. for the year 1884, were \$14,402,000, in 1904 they were \$34,484,000 or more



*Testimony of Richard A. McCurdy*

than—or nearly three times as much, or twenty millions more than they were twenty years ago. The new business, as I have told you the company was practically stationary at that time—the new business at that time was \$46,548,000, in the year 1884. In the year 1904 the new business transacted and paid for—and I want to draw a distinction right here. This does not mean business written as it is called, policies issued and charged to an agent and returned after the end of the year, taken or not taken, as the case may be, but this means policies actually written, actually issued, accepted by the insurer, and the first premium paid in full in cash. That is the way our statements are made and have been for many years. We don't issue any statements showing simply business written as it is called, but policies actually issued and paid for by the full first premium in cash in 1904 were \$231,508,259, the gain in twenty years was \$184,959,000. The insurance in force on the books of the company was in 1885 \$368,000,000. That was the insurance in force. It increased from year to year until 1895, when the insurance in force at that time was \$898,000,000, but at that time we began, as I say, the substitution of the plan of only reporting policies actually accepted and paid for in cash the whole full premium. Previous to that the records were of business written. But taking business written, which would be in excess of business paid for in 1885 of \$368,000,000, in 1904 the insurance in force was \$1,547,611,660, or a gain of insurance in force in twenty years of \$1,178,659,335, a gain of the insurance in force in each year, in 1885 \$17,000,000, \$24,000,000, \$33,000,000, \$54,000,000, \$83,000,000, \$72,000,000, \$57,000,000, \$50,000,000, \$57,000,000, \$51,000,000, \$43,000,000, \$19,000,000, \$17,000,000, \$34,000,000, \$80,000,000, \$88,000,000, \$101,000,000, \$99,000,000, \$104,000,000, \$102,000,000 or a gain in twenty years of \$85,000,000 a year.

*Testimony of Richard A. McCurdy*

MR. BECK: Mr. Chairman, may we have permission to spread these figures in detail upon the record.

THE CHAIRMAN: They have been already put upon the record, but the permission will be granted.

The statement is as follows:

ASSETS.

| Year.                     | Amount.          |
|---------------------------|------------------|
| 1885.....                 | \$108,431,779.00 |
| 1886.....                 | 113,679,962.00   |
| 1887.....                 | 118,274,967.00   |
| 1888.....                 | 125,494,719.00   |
| 1889.....                 | 135,638,539.00   |
| 1890.....                 | 146,494,180.00   |
| 1891.....                 | 158,124,245.00   |
| 1892.....                 | 173,193,263.00   |
| 1893.....                 | 184,935,691.00   |
| 1894.....                 | 202,289,423.00   |
| 1895.....                 | 219,704,053.00   |
| 1896.....                 | 234,744,148.00   |
| 1897.....                 | 253,786,438.00   |
| 1898.....                 | 277,517,325.00   |
| 1899.....                 | 301,844,538.00   |
| 1900.....                 | 325,753,153.00   |
| 1901.....                 | 352,838,972.00   |
| 1902.....                 | 382,432,681.00   |
| 1903.....                 | 401,978,371.00   |
| 1904.....                 | 440,978,371.00   |
| Gain in twenty years..... | \$332,546,592.00 |

*Testimony of Richard A. McCurdy*

TOTAL INCOME.

| Year.                     | Amount.         |
|---------------------------|-----------------|
| 1885.....                 | \$20,214,954.00 |
| 1886.....                 | 21,137,177.00   |
| 1887.....                 | 23,119,923.00   |
| 1888.....                 | 26,215,933.00   |
| 1889.....                 | 31,119,020.00   |
| 1890.....                 | 34,978,779.00   |
| 1891.....                 | 37,634,735.00   |
| 1892.....                 | 40,238,865.00   |
| 1893.....                 | 41,953,146.00   |
| 1894.....                 | 48,020,870.00   |
| 1895.....                 | 48,597,431.00   |
| 1896.....                 | 49,702,695.00   |
| 1897.....                 | 54,162,608.00   |
| 1898.....                 | 55,006,629.00   |
| 1899.....                 | 58,890,077.00   |
| 1900.....                 | 60,582,802.00   |
| 1901.....                 | 65,624,306.00   |
| 1902.....                 | 73,305,023.00   |
| 1903.....                 | 77,333,713.00   |
| 1904.....                 | 81,002,984.00   |
| Gain in twenty years..... | \$60,788,030.00 |

TOTAL DISBURSEMENTS.

| Year.     | Amount.         |
|-----------|-----------------|
| 1885..... | \$17,359,223.00 |
| 1886..... | 16,283,086.00   |
| 1887..... | 17,777,938.00   |
| 1888..... | 19,699,657.00   |
| 1889..... | 21,629,502.00   |
| 1890..... | 24,180,816.00   |

*Testimony of Richard A. McCurdy*

| Year.                     | Amount.         |
|---------------------------|-----------------|
| 1891.....                 | 26,107,039.00   |
| 1892.....                 | 26,806,144.00   |
| 1893.....                 | 30,370,040.00   |
| 1894.....                 | 30,878,891.00   |
| 1895.....                 | 33,527,890.00   |
| 1896.....                 | 36,218,575.00   |
| 1897.....                 | 36,124,061.00   |
| 1898.....                 | 35,245,039.00   |
| 1899.....                 | 38,597,481.00   |
| 1900.....                 | 39,446,613.00   |
| 1901.....                 | 42,452,607.00   |
| 1902.....                 | 44,150,308.00   |
| 1903.....                 | 48,807,616.00   |
| 1904.....                 | 51,382,731.00   |
| Gain in twenty years..... | \$34,023,508.00 |

EXCESS OF TOTAL INCOME OVER TOTAL  
DISBURSEMENTS.

| Year.     | Amount.         |
|-----------|-----------------|
| 1885..... | \$ 2,855,731.00 |
| 1886..... | 4,854,091.00    |
| 1887..... | 5,341,985.00    |
| 1888..... | 6,516,276.00    |
| 1889..... | 9,489,518.00    |
| 1890..... | 10,797,963.00   |
| 1891..... | 11,527,696.00   |
| 1892..... | 13,432,721.00   |
| 1893..... | 11,583,106.00   |
| 1894..... | 17,141,979.00   |
| 1895..... | 15,069,541.00   |
| 1896..... | 13,484,120.00   |
| 1897..... | 18,038,547.00   |

*Testimony of Richard A. McCurdy*

| Year.                     | Amount.         |
|---------------------------|-----------------|
| 1898.....                 | 19,761,590.00   |
| 1899.....                 | 20,292,596.00   |
| 1900.....                 | 21,136,189.00   |
| 1901.....                 | 23,171,699.00   |
| 1902.....                 | 29,154,715.00   |
| 1903.....                 | 28,526,097.00   |
| 1904.....                 | 29,620,253.00   |
| Gain in twenty years..... | \$26,764,522.00 |

PAYMENTS TO POLICYHOLDERS.

| Year.                     | Amount.         |
|---------------------------|-----------------|
| 1885.....                 | \$14,402,050.00 |
| 1886.....                 | 13,129,103.00   |
| 1887.....                 | 14,128,423.00   |
| 1888.....                 | 14,727,550.00   |
| 1889.....                 | 15,200,608.00   |
| 1890.....                 | 16,973,200.00   |
| 1891.....                 | 18,755,712.00   |
| 1892.....                 | 19,386,533.00   |
| 1893.....                 | 20,885,472.00   |
| 1894.....                 | 21,089,257.00   |
| 1895.....                 | 23,126,728.00   |
| 1896.....                 | 25,437,569.00   |
| 1897.....                 | 25,992,055.00   |
| 1898.....                 | 24,751,659.00   |
| 1899.....                 | 26,369,037.00   |
| 1900.....                 | 26,361,864.00   |
| 1901.....                 | 28,679,670.00   |
| 1902.....                 | 29,071,358.00   |
| 1903.....                 | 32,655,204.00   |
| 1904.....                 | 34,484,275.00   |
| Gain in twenty years..... | \$20,082,225.00 |

*Testimony of Richard A. McCurdy*

NEW BUSINESS.

| Year.                     | Amount.          |
|---------------------------|------------------|
| 1885.....                 | \$ 46,548,894.00 |
| 1886.....                 | 56,898,214.00    |
| 1887.....                 | 69,641,110.00    |
| 1888.....                 | 103,346,034.00   |
| 1889.....                 | 151,962,063.00   |
| 1890.....                 | 161,365,921.00   |
| 1891.....                 | 172,708,868.00   |
| 1892.....                 | 162,929,748.00   |
| 1893.....                 | 212,426,850.00   |
| 1894.....                 | 211,551,887.00   |
| 1895.....                 | 158,361,032.00   |
| 1896.....                 | 135,679,834.00   |
| 1897.....                 | 140,632,461.00   |
| 1898.....                 | 134,118,295.00   |
| 1899.....                 | 169,246,871.00   |
| 1900.....                 | 176,006,030.00   |
| 1901.....                 | 194,371,100.00   |
| 1902.....                 | 206,676,185.00   |
| 1903.....                 | 215,102,648.00   |
| 1904.....                 | 231,508,259.00   |
| Gain in twenty years..... | \$184,959,365.00 |

NOTE.—Figures prior to 1895 show issued business. For that and subsequent years, paid-for business only.

INSURANCE IN FORCE .

| Year      | Amount        |
|-----------|---------------|
| 1885..... | \$368,952,337 |
| 1886..... | 393,776,174   |
| 1887..... | 427,583,359   |
| 1888..... | 482,050,579   |

*Testimony of Richard A. McCurdy*

| Year.                     | Amount.         |
|---------------------------|-----------------|
| 1889.....                 | 565,839,387     |
| 1890.....                 | 638,041,180     |
| 1891.....                 | 695,484,158     |
| 1892.....                 | 745,780,083     |
| 1893.....                 | 802,867,478     |
| 1894.....                 | 854,710,761     |
| 1895.....                 | 898,458,857     |
| 1896.....                 | 917,930,911     |
| 1897.....                 | 935,602,381     |
| 1898.....                 | 970,496,975     |
| 1899.....                 | 1,051,247,340   |
| 1900.....                 | 1,129,940,529   |
| 1901.....                 | 1,241,688,430   |
| 1902.....                 | 1,340,748,659   |
| 1903.....                 | 1,445,226,851   |
| 1904.....                 | 1,547,611,660   |
| Gain in twenty years..... | \$1,178,659,323 |

Note.—Figures prior to 1895 show issued business. For that and subsequent years, paid-for business only.

GAIN IN INSURANCE IN FORCE.

| Year      | Amount       |
|-----------|--------------|
| 1885..... | \$17,163,052 |
| 1886..... | 24,823,837   |
| 1887..... | 33,807,185   |
| 1888..... | 54,467,220   |
| 1889..... | 83,788,808   |
| 1890..... | 72,201,793   |
| 1891..... | 57,442,978   |
| 1892..... | 50,295,925   |
| 1893..... | 57,087,395   |

*Testimony of Richard A. McCurdy*

| Year.                                            | Amount.      |
|--------------------------------------------------|--------------|
| 1894.....                                        | 51,843,283   |
| 1895.....                                        | 43,748,096   |
| 1896.....                                        | 19,472,054   |
| 1897.....                                        | 17,671,470   |
| 1898.....                                        | 34,894,594   |
| 1899.....                                        | 80,750,565   |
| 1900.....                                        | 88,692,989   |
| 1901.....                                        | 101,747,901  |
| 1902.....                                        | 99,060,229   |
| 1903.....                                        | 104,480,022  |
| 1904.....                                        | 102,382,979  |
| Increase in twenty years in<br>yearly gain ..... | \$85,219,927 |

Note.—Figures prior to 1896 are based on issued business. For that and subsequent years, on paid-for business only.

MR. BECK: May I have permission once more, as to the question of increase of salary?

MR. HUGHES: Certainly.

MR. BECK: Mr. McCurdy, isn't it a fact that the Mutual Life Insurance Company is not only the largest insurance company in the world, but that in addition to that its assets are larger than those of the Bank of France, the Bank of England, and the Bank of Germany combined?

THE WITNESS: I believe that to be the fact.

MR. ROGERS: Let me ask one question of Mr. McCurdy.



*Testimony of Richard A. McCurdy*

BY MR. ROGERS:

Q. I understand that the point which counsel seeks to make is this, that the increase in salary is warranted by the increase in assets, if that is what I understood.

MR. BECK: The increase in assets and the growth of the business and the increase of responsibility. Now, Senator, just allow me to give an illustration of my point.

Suppose a little steel mill is on the Allegheny River, and a man is the president of that little steel mill, and that the value is a million dollars, and this mill goes into the United States Steel Corporation of a capitalization of \$1,458,000,000, and the president of the little company becomes the president of the greater company, will it be contended for a moment by this Committee that the president of the United States Steel Corporation (whose salary is credibly reputed to be five hundred thousand a year and a bonus to boot—is, or was, I refer to Mr. Schwab's salary) is it credible that should not be more justifiable than the salary of the president of a little mill on the Allegheny River? When you have made that comparison, you have made the comparison between the company as it was when Mr. McCurdy became president of it and as it is to-day, the pride of this country.

MR. ROGERS: The point I wanted to get at was this, without entering into an argument in answer to your hypothetical question——

MR. BECK: You asked whether you had stated my thought correctly, and I wanted to give my thought.

MR. ROGERS: I am following the question whether the

*Testimony of Richard A. McCurdy*

assets justify the increase. In 1885 the assets were approximately \$108,000,000. In 1901, which was the year the salary was increased to \$150,000, the assets were \$350,000,000, in other words, they were increased about three times. Now, the payments, to policyholders, which it would seem to me were also a very good test, were in 1885, in round numbers, fourteen and a half millions and in 1901 twenty million six hundred and odd thousand dollars, the increase being something over twice as much. The president's salary, however, has been increased from thirty thousand dollars, as I understand it, to one hundred and fifty thousand dollars; in other words, five times as much. So, isn't your proportion somewhat too large so far as the president's salary is concerned?

MR. BECK: I haven't pretended, Senator, if you appeal to me, that there should be any mathematical progression in the matter, but I say a man responsible to six hundred thousand policyholders for four hundred and fifty millions deserves more salary than the same man responsible for one hundred millions, and moreover, as something has been said about the lessening of profits to the policyholders by reason of the compensatory salary, I wish to say that the actual amounts paid by each policyholder of the Mutual Life to Mr. McCurdy's salary for this vast responsibility, a responsibility in a financial sense that has not its equal in the world, is twenty cents.

MR. HUGHES: How much would it be if it was half a million? It wouldn't be more than twenty-one cents, would it?

MR. TULLY: Mr. Beck, as an abstract proposition, do you think that the service of any man as president of a life insurance company is worth one hundred thousand dollars?

*Testimony of Richard A. McCurdy*

MR. BECK: I am delighted you asked that question, and ask the indulgence of the Committee again.

THE CHAIRMAN: Do not think that the mere fact that the Chairman, or a member of the Committee asks a question, gives you the opportunity for any lengthy remarks.

MR. TULLY: I want to hear what Mr. Beck says on this.

MR. BECK: Oh, no, I will not make any lengthy remarks. I say, in the first place, there are thirty law firms in this city making more than one hundred and fifty thousand dollars a year, with no such responsibility, and if Mr. Hughes gets all of his deserts he ought to be one of the thirty.

MR. ROGERS: He is giving more attention to some phases of life insurance.

MR. BECK: I say, there are more stock exchange houses in the mere matter of the sale of securities, making one hundred and fifty thousand dollars a year.

MR. ROGERS: But they are not salaries.

MR. BECK: They are not salaries, but they are on commissions.

THE CHAIRMAN: Mr. Beck, your first two metaphors, of a steel mill and a lawyer's compensation, seem extremely poorly chosen.

MR. BECK: They were separated by an interval of time. There should be no connection between the two, I respect-

fully deny, but it is a fact, and, remembering Dr. Johnson's famous remark, that we ought to avoid cant, it is a fact that in this city there are many men who make more money with far less responsibility and far less work than the president of this institution, and what is more, I venture to say, as the general manager said when he was on the stand, that the policy of this country is that there should be large rewards for large achievements, and I think his words are very true and should apply to large profits. I thank the Committee for its courtesy. I did not intend to trespass so long upon its time.

THE CHAIRMAN: We are mindful that the hour of adjournment is drawing near, Mr. Beck, and wanted to utilize what time is possible.

BY MR. HUGHES:

Q. Now, without reference to any relation that may exist between the facts you have mentioned and the amount of salaries that may be properly paid, it is entirely proper that there should appear upon the record the growth of your company as indicated in the many ways which you have mentioned, and it is proper that all the distributions of that growth should be well understood. Now, in the first place, when your assets increase, that increase is from the moneys that have been paid to you by policyholders, or the investment at a profit of such moneys, is it not? A. No.

Q. What is it? A. It is the money that is paid to give the benefit of life insurance to them and to every other future applicant for insurance that shall make application to the company so long as its energies continue to be exercised in that direction.

*Testimony of Richard A. McCurdy*

Q. I think that you misunderstood my question. I am referring now to the sources of those moneys, which you stated as the assets of the company. Their source is the payment by policyholders and the profitable use of the moneys, which policyholders have paid into the company? A. No, sir.

Q. What is it? A. I rest my answer on the question of profitable use. It is an entire misconception of the function of the life insurance company—

Q. Well, put it right. A. To consider it as a company organized for the benefit of making money or of declaring dividends to the person who pays the premium to the company. The object of what is called a mutual company—it is not a mutual company mainly because it can elect a certain number of men directors, and every policyholder has a right to cast a vote in person for a director or to send a proxy for it—that isn't what makes a mutual company. It isn't only participation in the results of the business for this year, but it is carrying on the work which was in contemplation of the founders of the mutual system in this country—it wasn't so in England, for in England life insurance was originally a money-making scheme; it was an investment scheme; it was proprietary and the men who put their money into that expected to get a dividend on their investment, and they little by little—perhaps they admitted policyholders to a participation in what were in that case the profits on the business to be divided among them from time to time. When the Mutual Life Insurance Company was established I believe there was a little company in Pennsylvania, the Clergy Mutual League—there are plenty of gentlemen here, I suppose, who are specialists in that matter and can tell me whether I am right or not—that was doing a kind of life insurance on a sub-

*Testimony of Richard A. McCurdy*

scription plan, something like that of the assessment company to-day or other fraternal orders.

But the Mutual Life Insurance Company was organized upon the theory of the men who instituted it at that time that it was a great beneficent missionary institution to extend the benefits of life insurance as far as possible within the limits of safety and as far as were practicable into every town and hamlet of this country. Europe wasn't thought of at that time, but it was to extend—it was a mutual company to extend the business of life insurance. Profits weren't thought of, weren't dreamed of. That is what it was put there to do—that is what the company was organized to do and that was what I was put there to do when I was elected president of the company, to extend the benefits of the life insurance company to every person who would be brought in, and if you should choose to put it so, whether at the temporary or permanent expense of the man already insured in the company or not. It made very little difference. It wasn't the object to declare a dividend to a man; it wasn't the object that he should carry a policy of \$2,500 or \$3,000 and pay a premium of 19.28, or whatever it might be, and then at the end of the year get \$7, and go home and spend it for cigars. The object was to insure as many men as possible, and to pay them at the time of their death, and not during their life-time one penny. Dividends weren't thought of, excepting as they were reversionary additions to the policies, and to a certain extent what you call profit wasn't thought of, nor the element of expense wasn't thought of, because it was conceived by those men in the early day that this was—as I have said it was a mutual association for mutual benefit to bring not only myself into this thing, and that I might get a policy on my life or that my wife and children might get it, but that I, in carrying out this

*Testimony of Richard A. McCurdy*

beneficent idea should induce my friend and my neighbor and everybody else, or that agents should be employed to do it, to come in, and even if it did—if it did necessitate the advance from my payments for the time being or even permanently—the object was based upon the conviction that every man ought to carry life insurance as a benefit to his family, to the community and to the world and to civilization at large, and that was the object of it. And that is why I say when you introduce the word profit—in the foundation of the Mutual Life Insurance Company the idea of profit was entirely absent. The charter of the Mutual Life Insurance Company provided that when \$500,000 of insurance was subscribed and the premiums paid that then it should commence business without a dollar of capital or anything, but that which was paid in by the premiums of those early promoters. They didn't take it to make a profit out of it. I doubt whether one of them ever had any idea of what the result of it would be. They did it from a pure spirit of philanthropy and benevolence to start a company which they believed to be a missionary enterprise, so to speak. I don't want to talk cant about it, but that was the object of it. The charter of the Mutual Life Insurance Company provided that any premium—that no premium if paid into the company should ever be returned to anybody except in the form of reversionary insurance with the policy when it matured by the death of the insured. It provided that any person who ceased to pay his premium to the company, utterly in defiance of the present idea of inherent right of policyholders to any part of their reserve or anything of the kind, it was recognized by these early people who founded the Mutual Life Insurance Company—it provided for every dollar—that if a man ceased to pay his premium the whole money previously paid should be forfeited to the company and should be added to those

*Testimony of Richard A. McCurdy*

policies which persisted in remaining members of the company. That is, I say—I don't want—the Chairman is talking about—. Have I gone on too long, Mr. Chairman?

MR. HUGHES: Well, you have made a very full explanation and treated it as a missionary enterprise. The question comes back to the salaries of the missionaries? A. Well, all right.

Q. Now, in connection with that you have produced a statement which you are entitled to have fully considered of the growth of this company. Now, what I want to direct your attention to is this: You spoke of a certain quantum of assets and of the increase of these assets from year to year. I simply wanted to know where the money came from. A. It comes from the policyholders.

Q. Yes, it comes from the policyholders. Well, some of it comes in the interest on bonds? A. Yes.

Q. Some of it comes in the way of dividends on stocks? A. Yes.

Q. Some of it comes in the way of rents upon real property? A. Yes.

Q. That is what I meant by profitable use, that you invested your moneys and you got the return. A. Then I beg your pardon for boring the gentlemen of the Committee and yourself with such an unnecessary scream.

Q. Not at all. Then the moneys came in this way, the premiums that are paid in, and secondly, the income derived from the investment of those moneys or the increment in the investment itself? A. Yes.

Q. For example, take the mere matter of increment: I find in last year there was a gain in market values of the properties held by your company of some nine millions of dollars, and that amount, of course, in part made up the gain or increase of assets for that year? A. Yes.



*Testimony of Richard A. McCurdy*

Q. Now, that we may understand what these large figures mean, in the first place when you increase your assets as an insurance company, you at once increase your liabilities, do you not? A. No, sir, not technically.

Q. You have spoken of \$9,000,000 of increase of the assets of the company. That may have been the result of judicious investment and the rise of those stocks in value? Yes, but apart from that, when you get a premium? A. When I get a premium, of course, there are two sides to the question. There is a liability on the one side and the premium on the other.

Q. In other words you said that the assets now were \$440,978,000? A. Yes, sir.

Q. Or were at the end of last year. Now, against that you figure on a liability by virtue of your outstanding insurance computed with reference to the present worth of those obligations upon a 4 per cent—— A. Three and a half per cent.

Q. On a three and a half per cent basis since 1897 of \$366,620,000? A. Right.

Q. So that the figures that you have given as the assets of the company must be considered in the light of the responsibilities of the company and the increase of the assets in the light of the increase of the liabilities of the company to those who pay premiums to it. That is so, isn't it? A. Well, I suppose so.

Q. Certainly. So that, when you wish to get at an index to the real prosperity of the company you must have a gain and loss exhibit of to just what extent at the end of the year you are ahead net of the point which you had reached at the end of the year before. That is right, isn't it? A. That gain and loss exhibit had no relation whatever in the testimony that Mr. Beck has offered here on my behalf to the results of my labors. That has no relation to that at all, if you will allow me to say so.

Q. But apart from what Mr. Beck had in mind, or what you had in mind, that we may understand just when it is that a mutual

*Testimony of Richard A. McCurdy*

life insurance company is prosperous, and the extent of its prosperity, we must take up not simply a volume of assets, not simply an increase of income, not simply the payments which it may have made in a given time, but we must take up the items of gain in a particular period or loss in that period, and the net gain which has been made, isn't that so? A. Not necessarily so, no. It is a motto that we have used somewhat in our advertising circulars, "The best company is the company that does the most good."

Q. To whom? A. And you have got to realize and have got to take into consideration, what, as I say, the company was chartered for and the amount of business it is doing. The amount of new business very largely indicates the prosperity, which is another name for the success of the company, and even if we should do a very large new business which should encroach somewhat for the time being, or should encroach somewhat upon the surplus of the company, that is no indication that the company is doing a bad business; simply an indication that it is doing what it was chartered to do, extending its business and extending its benefits, and prospering in that sense of the word.

Q. Of course, the philanthropy which you have in mind——. A. Yes, philanthropy. But I claim that it is a philanthropic enterprise, and that the estimation in which life insurance companies have been held in late years has been a wrong one entirely, and that they have been held to be money making affairs for the sake of the policyholder, and the annual return to him in his dividends, and it has obscured the whole object of a mutual life insurance company, what it was intended for and what to-day it is doing.

Q. Well, that is a very interesting line, Mr. McCurdy. A. Well, that is my belief.

Q. Do I understand you that you regard yourself as charged primarily with the duty of extending insurance, although it may be extended at the expense of the policyholders, and it would be

*Testimony of Richard A. McCurdy*

more profitable to them to have it curtailed? A. I do. That is the view I take of the Mutual Life Insurance Company, and that every person who goes in insurance companies gets insured on that basis, and with that obligation, that the object of that company is to diffuse itself as widely as possible, and that it is an obligation that every person ought to understand when he takes a policy of life insurance, that he isn't doing it wholly for his own benefit, but he is participating in a great movement for the benefit of humanity at large, and for every other person who comes in and takes a policy in that company, and in that way joins his brotherhood. It is the basis of the fraternal orders, as I believe they are called, masonry and other things, that a life insurance company is an eleemosynary institution to a very large extent. I have always believed that all my life and I believe it to-day.

Q. We will come back to the point of departure a moment later, but that is so interesting I want to follow it for a moment. You understand, of course, whatever philanthropy in your undertaking must have an economic basis. A. Yes, in my philanthropy. In a great many philanthropies there isn't any economic basis.

Q. But in the insurance philanthropy it is essential that there should be an economic basis? A. Yes, sir.

Q. You don't propose to give insurance away, do you? A. No, though some people say we do. We don't do it unless we can help ourselves.

Q. We will come to that later. You don't intend, for example, to extend the benefits of insurance over the Orient at the danger of your company, at the expense of American policyholders? A. No, I think that would be extremely injurious.

Q. Don't you know that it is necessary every time you issue a policy in every country to have a secure basis for the

*Testimony of Richard A. McCurdy*

payment of whatever that contract may call for? A. Oh, yes; oh, yes, undoubtedly.

Q. And don't you know that basis will soon be rendered insecure if the expenses of your company exceed what is allotted to the carrying on of your business? A. If the company is going down hill and losing money and the expenses are attaining an undue relation to the other conditions of the company, of course, it is in a bad way, and it is going to ruin, but when to-day, or to-morrow, something may turn up in the change in the mortality rate, as you have probably seen, where all these diagrams show the varying experiences of year by year and all that sort of thing, if you are going to be scared every time the mortality rate goes up above the average, why you wouldn't do much life insurance.

Q. Has this matter of philanthropy figured largely in the circulars which the Mutual Life issues in order to induce people to insure? A. Well, yes, I think it has, inferentially, yes.

Q. Well, directly, have you ever stated to the people whom you asked to take insurance in your company, that you don't regard your duty primarily to make the transaction a beneficial one to the policyholders, but that you will go on in an endeavor at his expense? A. I think that much, particularly of the early literature of the company, all bears that construction.

Q. Well, how about the literature of the last ten years? A. I have told you that I think that the aim and object of life insurance in recent years has been very much obscured by taking an entirely improper view of the object of life insurance, and considering it as a money-making operation for the individual and not as an institution in which all should participate for the common good and not for the selfish good of the individual.

*Testimony of Richard A. McCurdy*

Q. How has it happened that it has been obscured when you, as the president of your company, had full opportunity to make it clear? A. Because I have done the best I could under the circumstances.

Q. Well, what are the circumstances which have interfered with your efforts? A. The circumstances are very swift competition from very strong and active and ingenious competitors.

Q. Do you mean that it would not do to have your views upon that subject well known? A. Now, now, now, Mr. Hughes.

Q. What do you mean by swift competition? A. I mean the other fellows are doing just as much to beat me as I am doing to beat them, and I have to meet the market. Now, don't let us get into sparring about things.

Q. Now, then, to come back to the point where we were, whether you look at this as a philanthropic enterprise, or whether you look at it as one in which the policyholders have put up a certain amount of money upon the basis of certain calculation which you have made and with the inference that they will get after an efficient and economical administration all that they should have in return, have you in your mind any line which you would draw with regard to the expense of salaries of executive officers? A. There is no rule for the salaries of executive officers. There can't be any except the appraisal put upon them by the trustees or directors of the company, who under the obligation of their sense of duty and their knowledge of the character and capacity of the men that they are fixing the salaries of, and the amount of work that they perform. They don't get executive officers of a life insurance company or leaders of the Bar by the yard or by the bushel. They are entitled to what they are worth and what they have proved themselves to be worth.

*Testimony of Richard A. McCurdy*

Q. Do I understand that the matter of the placing of your salary was ever brought before the Board of Trustees? A. Never was and never would be, and never is. No salary is ever brought before the full Board of Directors.

Q. Have the trustees of your company known the salary you were receiving? A. They have if they wanted to, every one of them.

Q. Do you know whether they have? A. No, I do not, because it was not necessary that it should be so made. It was in the power or authority of the Committee on Salaries, so constituted and always existing from the time to which the memory of man runneth not to the contrary, I believe that the Committee on Salaries always had the right to fix the salaries of executive officers, and they have done that. Now, if you will allow me to say, Mr. Hughes, why, for instance, the general manager testified the other day he did not know what my salary was.

Q. I would be glad to have it stated. A. The vice-president, Mr. Granniss, testified at the first meeting of this committee that he did not know what my salary was. That is true. And whether right or wrong, it was based upon the experience of the company—oh, in the old times, well I cannot give dates, but in all events along about midway in the administration of my predecessor, used to be the habit of the finance committee to fix the salaries and review the salaries of every person in the office, officers and heads of departments and clerks just before the annual meeting, and the list so found by the Finance Committee was handed down to the cashier to be disclosed after the meeting of the Board of Trustees, which was assumed to have ratified the action of the Finance Committee. The force was small then, if I recall something not over fifty. To-day the clerical force is about 600, and the clerical force and what I might call the police force, I do not mean officers, but people who take care of the building, about a

*Testimony of Richard A. McCurdy*

thousand people employed at the home office. At that time there was about 50 people in the clerical force of the company, and they used to stand in rows and wait until the cashier gave out the list of the increases in the salaries. It produced dissension, jealousy, charges and counter-charges, and I recollect one instance when, after an annual meeting of that kind, there was an extreme disturbance and disorder among the clerks by reason of that. So my predecessor, at all events, came to the conclusion that the amount paid by the company to any individual in the service of the company was a matter between himself and the company and only such; that it was not conducive to the discipline of the company that the knowledge of what was paid should be distributed,—should come from the office at all events officially, and he gave orders to the cashier and did before my time that he was to consider himself forbidden to disclose the salary paid to any official or clerk of the company to any other official or clerk of the company. Of course, he could not prevent them from comparing notes and one asking the other if they chose. That has grown to be the custom, and although, as far as I know, as I say, clerks may exchange information and make inquiries and try to find out among each other, nobody is compelled to disclose what his salary is, and among the principal officers of the company I suppose there is a feeling of self-respect and delicacy which prevents them from prying into their neighbor's affairs, so the fact is, and I believe it is absolutely true, that unless through some accidental circumstance, very few of the chief officers of the Mutual Life Insurance Company know what the salaries of the other officers are. It has always been the custom of the company, not from any motive of concealment or anything of the kind, but because my predecessor in his experience determined that it was a matter of wisdom, that the salaries should not be so disclosed in his government.

Q. That, of course, would apply more to the question of the

*Testimony of Richard A. McCurdy*

clerical salaries than to the salaries of the executive officers?

A. No, sir, no, absolutely to the executive officers as well. It has always been the custom since long before my time.

Q. Then the Committee on Salaries fixes the salaries? A. The Committee on Salaries.

Q. Do they consult with you? A. Well, generally about—well, not of late years. I fear I do not want to lead you into any byways, but I am a layman and have been so long in the habit or out of the habit of concentrating my mind that perhaps I wander around and talk too much, but the fact is that, four years ago I think it is, the great increase in the number of the clerical forces became a burden upon the Finance Committee. They could not properly attend to the fixing of the salaries of every clerk in the office and scarcely of the executive officers. They wanted to be relieved as trustees from solicitation, and to look after this man's salary and that man's salary and this man's nephew and that man's uncle and all that sort of thing, and the number grew so you could readily see where there are four or five hundred clerks, not even the president knows, and he cannot know by sight even half of them, and he can know very little about the qualities and value of the services except as reported by the head of the department, but it had grown so cumbersome and there were so many of them that the importunities on the trustees whether they were on the Finance Committee or not, and all the executive officers were submitted to—because if there were fifty clerks there would only be fifty men trying to pull your leg, and where there are five hundred it is quite a different proposition—and then I studied the matter and endeavored to get at a system of classification of all the clerks in the company whereby a permanent salary should be attached to each desk, and that that should be the salary of that desk no matter who occupied it—.

Q. Pardon me for interrupting you, but I am not specially in-



*Testimony of Richard A. McCurdy*

terested in this matter of clerical salaries or the machinery, but I was directing your attention to executive salaries? A. Well, that is just it. I wanted to show why it was that the Finance Committee had devoted themselves of late only to——

Q. Clerical? A. Had dismissed all the clerical salaries and devoted themselves exclusively to the salaries of executive officers.

Q. I thought that was left to the Committee on Salaries? A. No, not the fixing of the salaries, that is just it, not the fixing of the salaries of the clerical force.

Q. But the executive officials? A. The executive officers are left to the Committee on Salaries.

Q. There was a matter which came up this morning which it is proper should be finished so far as it can be, or so far as your testimony is concerned. That is the matter of campaign contributions. Will you please state fully just what campaign contributions to political parties have been made directly or indirectly by your company or which you have any information? A. I have no personal knowledge, but I do not doubt that in the campaign of 1890 a substantial contribution was made by the Mutual Life Insurance Company to the Republican Party.

Q. 1890? A. What was the first Bryan campaign?

Q. You mean the McKinley-Bryan campaign? A. Yes.

Q. 1896, the first one? A. 1896.

Q. Was a contribution made to either political party in 1892? A. 1892, no, I think not. That was before—the first Bryan campaign was in 1896.

Q. The first Bryan campaign was in 1896? A. Yes.

Q. In 1892 Mr. Cleveland was re-elected. A. No.

THE CHAIRMAN: Mr. Hughes, in order to get started,

*Testimony of Richard A. McCurdy*

will you kindly ask Mr. McCurdy whether the first contribution ever made by the company was in 1896?

Q. Will you answer that please, was the first contribution ever made in 1896? A. Yes, that was the first contribution ever made.

Q. Is that true with regard to State campaigns as well as national? A. I never heard of our making any contribution to State campaigns.

Q. Either before or since that time? A. Either before or since, no.

Q. Then the first political contribution of any kind made by your company was in 1896? A. Yes.

Q. What was the amount of that contribution? A. That I cannot say.

Q. Who could say? A. Dr. Gillette can tell you.

Q. What was the next contribution that you know of or have any information about? A. Well, the two Bryan campaigns and the Parker campaign we contributed to.

Q. What was the contribution in 1900? A. That I could not say anything about. We did make a contribution, I know, in a general way, because I know what was the feeling of all my trustees and members of the Finance Committee in regard to it and the undoubted action of the Mutual Life in conformity with the action of other large interests that felt that they were menaced and would be injured by the triumph of the free silver doctrine or 16-to-1 measures.

Q. What was the next contribution? A. The next contribution was in 1904.

Q. And what was the amount of that? A. That I could not tell you. Dr. Gillette can tell you.

Q. What other contributions have been made to campaign funds? A. None that I know of.

*Testimony of Richard A. McCurdy*

Q. Do you know of the one that was made to the Congressional committee? A. That was—well, I never heard of it before until the other day and I was not aware that anything of that kind had ever been made.

Q. How is it possible that moneys can be paid out for such purposes by your company without your knowing anything about it? A. Because I am neither the treasurer nor the cashier nor the auditor of the company nor the chairman of the Committee on Expenditures.

Q. Yes, but you are the president of the company? A. I am the president of the company.

Q. And ex-officio on the Finance Committee? A. I am ex-officio on the Finance Committee, yes.

Q. Is it a fact that payments can be made by the treasurer or chairman of the Committee on Expenditures—I mean that extraneous to the business of your company in its ordinary routine, without your knowledge as president or as ex-officio on the Finance Committee? A. Lots of them.

Q. Well, what are they, what character? A. I cannot imagine—you can do the imagining if you want to.

Q. Why do you say lots of them? A. I mean to say I am not charged with the scrutiny of the daily payments of the Mutual Life Insurance Company.

Q. These are not daily payments in the sense of ordinary payments in the course of the insurance business. I speak of matters which would ordinarily be outside of that. A. I should have to have my eye on the cashier's window every hour of the day if I was to stay there all the time and watch some special appropriation or payment slip through.

Q. What do you rely upon to secure you and the company against a payment which would not command your judgment? A. I rely on the honest men by whom I believe I am surrounded and their judgment and their knowledge and their

*Testimony of Richard A. McCurdy*

opinion. I believe every one of them are honest men and I know that the action of the officers of the Mutual Life Insurance Company of New York reflect in all cases the judgment of the Finance Committee of that company and the influential trustees who pay special attention to the business of the company.

Q. Then, do I understand that if one of the vice-presidents of your company wanted to give \$10,000 to some State campaign in a distant State and he thought, from his personal standpoint, it was a good thing to do, he could do it and it would never be brought to your attention? A. I want to say this, that the administration of the Mutual Life Insurance Company is practically the joint administration, as in every company—there are always four or five men about, that is about all there are in any corporation, who take enough interest and have the requisite leisure and knowledge of the business to look in every day and participate in the management. In every corporation the real management is carried on by a small number of either appointed members of a committee officially appointed or self-constituted advisers of the president and officers who come there and talk about things every day. Now, there has been from the origin of my administration and before that a rule of unanimity. I have referred a great deal to my predecessor because I would a great deal rather have referred to my predecessor, who was a very able man, than I would to myself, and I have run to cover, if you choose to put it so, under the mantle of a very great man in the business. He laid down the principle that he would never have a vote taken in the Finance Committee upon any investment of money by the company, he would not have any man going away from the Committee room and saying, "I voted against it or would not have voted for it if I had been there." He took the position

*Testimony of Richard A. McCurdy*

that every vote and action of the Finance Committee had got to be unanimous. If it was not, it was immediately withdrawn and that was the end of it. That rule of the Finance Committee permeated the action practically of the entire Board of Trustees, and came to be the adopted rule of the other committees too, and I have never known in the twenty years and upwards that I have been the president of that company, I have never known a question settled in the Board of Trustees or any committee upon a vote by name or even by number. Now the result is a feeling of entire confidence upon the part of the members of the Finance and other committees and the active men in the management of the affairs of the company, and they know perfectly well that the rule which governs them governs also the executive officers, and that while not one of them would advise the executive officers or would do in the administering the affairs of that company a thing that they were not sure would have the consent of every other one of the trustees or members of the committee, they know the executive officers are bound by the same obligation and they are in and out every day.

Q. It is a case of mutual confidence? A. It is a case of mutual confidence.

Q. One more question and then we will adjourn to-day. To whom was the contribution in the campaign of 1904 paid? A. Oh, that I don't know.

Q. Don't know anything about that? A. I don't know anything about that.

MR. HUGHES: That is all for to-night.

THE CHAIRMAN: The Committee will stand adjourned to 10.30 o'clock to-morrow morning. Every witness under subpoena including the witness on the stand will be here without further notice.



ALDERMANIC CHAMBER,

CITY HALL, NEW YORK CITY.

October 11, 1905.

The Committee met pursuant to adjournment, Senator Armstrong in the chair.

THE CHAIRMAN: Gentlemen, this Committee meets this morning for the purely formal purpose of the announcement of the sad death of the Speaker of the Assembly, and formally adjourning out of respect to his memory.

Mr. Nixon was serving his fifteenth year as representative of one of the districts in Chautauqua County and his seventh consecutive term as Speaker of the Assembly.

He was a singularly great hearted, sympathetic, able man, who had that nice sense of proportion of men and conditions that made him the most powerful Speaker within the memory of men who are now in the Legislature. He possessed the friendship of thousands, dear to everyone who met him, and affection was the real foundation of the friendships he made.

I know of no one in the State who possessed more of influence nor exercised it more wisely, nor upon whom the affairs of this State were more largely dependent for right management and administration.

The loss is a most serious one.

It is the third time since this Committee has been in session that men associated with us have been stricken: First, Mr. Sackett, the stenographer to this Committee; then Senator Ambler, and now Speaker Nixon.

*Death of Hon. S. Frederick Nixon*

It is the saddest day that I remember since I have been a member of the Legislature, and every man on this Committee feels that he has lost a very dear and personal friend. It would be intolerable, of course, to attempt to continue the sessions of this Committee, important as it is that they should be continued, important as the matters are that are being considered, after such an event and until the funeral shall have been held.

Mr. McKeen, you were personally acquainted with Mr. Nixon. Do you desire to add anything to what I have said.

MR. McKEEN: Mr. Chairman and gentlemen of the Committee: On behalf of the counsel of the Committee, I take sad occasion to supplement briefly the words that have been put on the record by the Chairman. It was my privilege to know the Speaker quite well, and on a number of occasions to come into quite close contact with his official actions. It is perhaps a misfortune of our civilization that the habit has grown up of treating men in public office with scant praise, and often the habit of indulging in the most unmerited criticism.

Speaker Nixon was a man who rarely merited criticism. Like all men of personal force, his sense of duty often compelled him to override, perhaps somewhat summarily, the wishes and requests of his fellow citizens. He was a man who had, in my observation, a remarkably keen sense of the responsibility of high legislative office, and he was a man who had on all occasions the courage of his convictions.

I know that the counsel for your Committee feel regret that anything has occurred to interrupt the continuity of the sessions, particularly at this juncture, but they certainly concur in the feeling that the reason which impels this proposed adjournment is entirely adequate, and that it is most proper evidence of respect shown to the Speaker.

This joint committee represents the Legislature of the State



*Death of Hon. S. Frederick Nixon*

in activity during the interval between sessions, and it seems to us that they very wisely pay this token of respect to the memory of this distinguished legislator.

MR. PRENTICE: Mr. Chairman: Although it has for some time been feared and almost expected, the death of Speaker Nixon is a profound shock to me. By those who have known him in the Legislature he was universally loved and liked. I have often wondered, as I have seen his course there, at his uniform kindness and absolute fairness and impartiality to every member of the Legislature, whether Democrat or Republican. I think no one touched him who did not feel that, and I think no matter whether he granted any request or whether he had, in his judgment, to refuse it, that the man who asked it of him went from him feeling that he had been treated with absolute fairness and that Speaker Nixon had done all that in his judgment he thought he should do. And during my service in the Legislature, no man has been a stronger character and wielded more influence in Albany than Speaker Nixon, partly because of the loyalty and devotion of the members of the Legislature to him and their unbounded confidence in his judgment, and partly because of the strong character of the man.

To no one in the Legislature should greater credit be given for the good things that have been done in his time, and for the unwise things that have been prevented.

The death of Speaker Nixon is an extremely great loss to the Legislature and to the people of this State.

MR. TULLY: Mr. Chairman, it seems doubly sad that the Speaker should be taken away at the early age of 45 years. Although he had been, as the Chairman has stated, for seventeen years in the Legislature, he was yet in the prime of life and in the very vigor of manhood. Those of us who knew him well were

*Death of Hon. S. Frederick Nixon*

perfectly certain that he was destined to win a very high place in public life in this country had he been spared. He had marvellous qualities of leadership and of control over men. No presiding officer in Albany for a generation, either in the Senate or in the Assembly, kept the members of the Legislature so well in hand for perfectly proper things as Mr. Nixon.

In a narrow sense his death is a great loss to the Republican party.

In these days when elements and factions grow up in the parties there are at times men who seem to be able at least to hold the party together at the crucial moment. And that was true of Mr. Nixon as it was of no other man in my generation at least. He was beloved of every faction of the Republican party. He was a strong partisan, but never a bigot. And I am perfectly sure that his death will come as a personal sorrow not only to the members of his own party, but as a very great sorrow to those of the opposite party who served in the Legislature with him. . . . .

At home he was a marvelously popular man. It is a curious thing that during almost all the time he was in the Legislature he was also a member of, and for fourteen years Chairman of the Board of Supervisors of his home county. He was re-elected chairman while he was on his death bed.

No man in Chautauqua County fills so great a place in the hearts of the people as the Speaker. His death is indeed a very serious loss to the whole State, and it comes as a very acute sorrow to those of us who knew him so well.

MR. RIORDAN: Mr. Chairman, representing on this occasion not only the minority of the Committee, but the minority of both houses of the Legislature, I move that as a mark of respect to the memory of our friend and colleague, the Hon. S. Fred Nixon, that the Committee do now adjourn until Tuesday, at 10.30 A. M.

*Death of Hon. S. Frederick Nixon*

THE CHAIRMAN: The resolution is unanimously adopted.

The sergeant at arms and the attendants of the Committee will hold themselves subject to the direction of the counsel during the interim.

The Committee now stands adjourned until Tuesday morning next at 10.30 o'clock.



C O U N C I L   C H A M B E R,

CITY HALL, NEW YORK CITY.

October 17, 1905.

The Committee met pursuant to adjournment, Senator Armstrong in the chair.

THE CHAIRMAN: Those occupying the first two rows of chairs who are not witnesses or counsel for the insurance companies will vacate the chairs, please. Those two rows of chairs are reserved for witnesses and counsel.

MR. McKEEN: Mr. Chairman, in view of a statement at the last hearing, embodied in a statement by Mr. Beck as to the comparative volume of the assets of the Mutual Life Insurance Company and the three great banks of Europe, it occurred to us to put upon the record the actual figures as a correction of the inference that would be apparently drawn from Mr. Beck's statement, and figures which seem to us to have bearing upon one of the questions before this committee. The statement made by Mr. Beck in substance was corroborated by the witnesses upon the stand, that the assets of the Mutual Life Insurance Company exceeded the assets of the Bank of England, the Bank of France and the Bank of Germany combined. We have ascertained the latest reported assets of those three institutions, and also by cable have procured the statement as to the salaries paid to two of the chief officials. Subject to further verification, but with the asser-

*Testimony of Richard A. McCurdy*

tion that very great care has been taken to verify the figures, I will read them :

The assets of the Bank of France at the latter part of August, of this year, transmuted into American currency, were \$1,222,075,000.

The assets of the Bank of England were in the issue department \$266,598,225 and in the banking department \$364,956,500.

The assets of the Imperial Bank of Germany were \$472,945,000. The total assets of the three banks being \$2,226,574,725.

The Mutual Life's assets as of December 31, 1904, were \$440,978,371.

It will therefore be perceived that instead of the assets of the Mutual Life being greater than those of these three institutions combined, the excess assets of those three institutions over the assets of the Mutual Life was \$1,785,596,354.

It appears by information cabled to us that the salary paid to the president of the Imperial Bank of Germany is \$30,000; the salary paid to the chief governor of the Bank of England is 2,000 pounds, about \$10,000. We have been unable to ascertain the salary of the Bank of France.

MR. BECK: Mr. Chairman, I think it would be far more satisfactory if opportunity were given to us to see these telegrams and to learn from whom they come and upon what authority the statements are made.

THE CHAIRMAN: Mr. Beck, that is a matter for conference with our counsel and not for discussion with the Committee. I have no doubt they will exhibit to you any data they have on the subject. Let us not waste time about it at least.

*Testimony of Richard A. McCurdy*

MR. BECK: May I just say one thing, Mr. Chairman, at least. Unintentionally I misled the witness on the stand, and to some extent the Committee. What I had in mind and in my haste failed to state was that the assets of the Mutual Life exceeded the capital of the three institutions combined. If Mr. McKeen will be good enough to state to the Committee the capital of those three great institutions, I think he will find that statement, as amended, will accord with the facts.

THE CHAIRMAN: You and Mr. McKeen fix that privately and let us not waste time publicly.

MR. HUGHES: As the Mutual Life has no capital, I suppose it can hardly be compared with the capital of any institution.

MR. BECK: That is a perversion of what I said, Mr. Hughes, and it is not much worthy of you.

MR. HUGHES: I am sorry you take it so. I thought it was a fact. Will you take the stand, Mr. McCurdy?

THE CHAIRMAN: Mr. Hughes, just a minute. The sergeant-at-arms will keep this space back of counsel clear and also a passageway down this side of the chamber. There must be a passageway maintained there for witnesses and people who must go to and fro.

RICHARD A. MCCURDY, recalled, testified as follows:

BY MR. HUGHES:

Q. Mr. McCurdy, I show you a clipping from a magazine. Will you state whether that was inserted by your company?

*Testimony of Richard A. McCurdy*

A. I presume so; it is apparently an advertisement of the Mutual Life Insurance Company.

MR. HUGHES: I offer it in evidence.

(Marked Exhibit 270 and read by Mr. Hughes.)

Q. Was this advertisement inserted with your approval, Mr. McCurdy? A. I never saw it before in my life that I know of.

Q. Have you any knowledge what sort of circulars are issued by your company and advertisements made? A. Sometimes, when I see them in the papers, and other times not.

Q. No more knowledge than the casual readers of newspapers and magazines may have? A. I think you are mixing up there the functions of the advertising department and the actuarial department and putting them on me.

Q. Well, I merely want to know whether you know anything about them. If you don't you can say so. A. As a rule, I don't know anything about it. I didn't sign the advertisement, if that is what you mean. The official title of the president is appended to all sorts of advertisements.

Q. You don't keep track of that at all? A. No.

Q. Even the general supervision? A. No.

Q. I notice that this advertisement contains a coupon which can be cut out and mailed, the purpose being, I suppose, to elicit information which may lead to the issuance of policies. Do you know what is done with coupons of that sort that come to the office of the Mutual Life in the ordinary routine of business? A. That is a very common way of advertising which all companies adopt. The object is, I take it, to get the proper department of the company, who has charge of those things, the agency department, I should say, in relation



*Testimony of Richard A. McCurdy*

with persons who, by reading the advertisements, may become interested in the subject of life insurance. It is a very common way, and I think nearly all the companies adopt that form, and practically that coupon.

Q. Do you know what is done with the coupons when they come to the Mutual Life's office? A. No.

Q. Is it a fact that they are turned over to C. H. Raymond & Company? A. I don't know anything about it.

Q. Do you know whether there is any effort made at the home office to deal with men who apply direct through the means of coupons and issue insurance without paying commissions? A. I don't know anything about it.

Q. Have you ever made any inquiries with reference to that matter? A. Never had occasion to.

Q. The Committee and its counsel are in receipt of a large number of letters from policyholders of your company with reference to the dividends which have been declared or credited, and I desire to call your attention to two or three of them for the purpose of eliciting such corrections or such comment as you may desire to make. The addresses of the policyholders whose letters I shall read **in part are open to** you, as well as the original letters themselves, and those that I shall refer to are within the City of New York, so that the matter of verification can be easily made and attended to.

The first one is under date of October, 1905. The part of the letter I shall read is as follows:

"This policy was taken out in 1865 on the ten-payment life plan for three thousand dollars, when I was thirty-eight years of age. You will notice that during the five years immediately following the payment of my last premium, to wit, 1876, 1877, 1878, 1879 and 1880, the dividends were over fifty dollars. The dividends, according to the Mutual's letter of June 5, must have arisen 'exclusively from excess interest earned above

*Testimony of Richard A. McCurdy*

four per cent.,' and assuming this to be true, although I see no reason why, as a Mutual Policyholder, I should not participate in all the profits of the company, I cannot believe that the interest rate has declined sufficiently to cut my dividends down from fifty-five dollars and fifty cents in 1876 to thirty-nine dollars in 1881, and then to twenty dollars in 1891, and to three dollars in 1904, especially when the reserve of this policy has been increasing steadily year after year, which would, of course, tend to keep up the dividend."

Enclosed with this is the following statement, purporting to have been furnished the policyholder by your company, of the dividends credited by way of addition upon the policy in question. I will read the date and the amount of the addition:

|           |           |
|-----------|-----------|
| 1866..... | \$ 97.86  |
| 1867..... | 124.08    |
| 1868..... | 127.20    |
| 1869..... | 126.89    |
| 1870..... | Illegible |
| 1871..... | 115.78    |
| 1872..... | 94.95     |
| 1872..... | 160.79    |
| 1873..... | 173.09    |
| 1874..... | 95.36     |
| 1875..... | 110.15    |
| 1876..... | 55.50     |
| 1877..... | 54.35     |
| 1878..... | 54.00     |
| 1879..... | 54.00     |
| 1880..... | 52.00     |
| 1881..... | 39.00     |
| 1882..... | 39.00     |

*Testimony of Richard A. McCurdy*

|           |       |
|-----------|-------|
| 1883..... | 40.00 |
| 1884..... | 40.00 |
| 1885..... | 40.00 |
| 1886..... | 33.00 |
| 1887..... | 33.00 |
| 1888..... | 27.00 |
| 1889..... | 27.00 |
| 1890..... | 21.00 |
| 1891..... | 20.00 |
| 1892..... | 21.00 |
| 1893..... | 21.00 |
| 1894..... | 13.00 |
| 1895..... | 13.00 |
| 1896..... | 13.00 |
| 1897..... | 13.00 |
| 1898..... | 11.00 |
| 1899..... | 9.00  |
| 1900..... | 9.00  |
| 1901..... | 9.00  |
| 1902..... | 9.00  |
| 1903..... | 9.00  |
| 1904..... | 3.00  |

Q. Before dealing directly with the question of the dividends credited in the last few years, it would be proper to call your attention to the distinction between a case where dividends are credited while premiums are being paid upon a policy, and dividends that are credited after the policy has been paid up. During the period in which premiums are being paid, I presume you recognize the fact that whatever dividends are credited are due to gains which are because of the calculation or the necessities of the company, upon the basis of its calculations, are somewhat less actually than they were estimated to be, is that so? A. I want to

*Testimony of Richard A. McCurdy*

make one general remark, if you will allow me, Mr. Hughes, and that is, when you come to these abstruse calculations of dividends, and so on, you have got the wrong witness. You ought to call, in fairness to me and the company, the actuary of the company, who can answer you readily, whose mind is stored with all these facts and figures and arguments that you precipitate upon me, entirely unprepared, and if I may be allowed to say so, with due respect, I think it is taking an unfair advantage. If, for instance, take this very case—although I should not profess to be the expert on such questions as that, that the actuary of the company is,—take this very case. If you had been good enough to let me know a day before the nature of the investigation, the line of the investigation you were going to follow, and what I might be expected to answer, I should have been very glad indeed to have prepared myself to answer you as well as I could. But witnesses are brought here without any knowledge of the line of examination that is to be followed, and they are taken entirely unprepared, and I must say that I do not think it is fair treatment. On the other hand, if the Committee will pardon me for stating, and will allow me to state my views on the subject, I think the whole course of this investigation, as it is called, is entirely outside of what was in contemplation of the Legislature when the Committee was constituted. It was an investigation into the conditions of life insurance, and not what it is commonly called in the newspapers, an inquisition. And Mr. Hughes, himself, with all due respect, has been generally designated the Chief Inquisitor. Now, I say that has a mediæval sound, and not entirely in accordance with the ideas of the present day, exactly, and to make this an inquisition, in which, as has been advertised in all the papers, witnesses are to be put upon the rack, and all that sort of thing, is entirely a different conception of the functions of this examination, from what I believe the Legislature contemplated when they established the Committee or instituted

*Testimony of Richard A. McCurdy*

a committee to look into the conditions of life insurance with regard to future legislation.

Q. This is, indeed, an inquisition, Mr. McCurdy, in the very true sense that it is an inquiry after facts which this Committee and its counsel propose to get. A. All right.

Q. Now, we shall have occasion to call your actuary, and it would only be proper that questions involving any mathematical calculations, and which are technical and abstruse, if any such were put, should be put to the actuary of the company; but you have been some forty years with this insurance company; you are the president of the company, and you get for your responsibilities one hundred and fifty thousand dollars a year. I want to know what you know about the business of the company. A. You are trying to prove me a fool.

Q. Without commenting upon that, which obviously requires no comment, Mr. McCurdy, I want to ask you to tell me, not in great detail, or with reference to anything abstruse, but in the most general manner, some of the considerations which are applicable to the course of the business of your company. I think that is a proper line of inquiry, and I must ask you to answer my questions as best you can. Now, in the first place, during the time that the policy, that premiums are being paid upon a policy, you recognize the fact, do you not, that the premiums so paid are calculated with reference to a supposed rate of mortality, a supposed rate of insurance which the company will earn, and also with reference to the estimate of the amount which will be needed to meet the liabilities of the company. Is not that so? A. I refer you to the actuary.

Q. You do not know as to that? A. I refer you to the actuary.

Q. Suppose, for example, that I asked you whether you would recognize this to be a correct statement (reading):

"The life insurance company in calculating the rates of

*Testimony of Richard A. McCurdy*

premiums which it must charge in order to be perfectly sure of carrying out all of its contracts, necessarily makes certain assumptions for the future. These assumptions are of three kinds; first, it must assume a rate of mortality to be expected among its insured lives; second, it must assume a rate of interest which it may expect to realize upon its investments for a long period of years to come, and third, it must assume a rate of expense upon the premium to cover the cost of administration, taxes and all expenses, of every kind." Is that a fair statement? A. What are you reading from, if I may ask.

Q. I am reading from a paper prepared by an eminent actuary, Mr. Weeks, of the New York Life. Would you recognize that as a proper statement? A. My answer to that is the same as the other. In any criticism of a technical—

Q. This is not a matter of criticism, it is merely to get at the general course of your business. A. In any comment or explanation upon a paper prepared by the actuary of any company, I should refer you to the actuary of my company as the proper person to comment upon it, and not myself.

Q. My object in asking these questions was to give you the opportunity of saying, which I thought you would be glad to avail yourself of, that the marked difference between the dividends credited during the time that premiums are paid and the much smaller dividends that are credited after the payments have ceased is due to the fact that there is no longer an opportunity for a return of what in effect was an overcharge. Now, is not that so? A. That was your object, was it?

Q. Yes, and is it not fair to your company that that should appear? A. If I may say it, without disrespect, I am somewhat doubtful about your objects, and I decline to discuss them in any case.

*Testimony of Richard A. McCurdy*

Q. They are not the subject of examination. Is that a fair statement of the matter? A. I would prefer to say nothing about it and decline to enter into any discussion of those subjects which, as I said before, are proper subjects of discussion with the technical experts of the company.

Q. Well, tell, Mr. McCurdy, if you know, why it is that with all your boasted increase of assets and increase of new business, your dividends on this policy last year were \$3, and when your administration began were over \$50. Do you know? A. Probably yes. In the first place, I do not admit the facts.

BY MR. ROGERS:

Q. Do you deny the fact? A. Probably, yes.

Q. Well, do you deny it? A. How do I know what those figures that that man states in that letter are? How do I know whether they are true or not? He states them. If Mr. Hughes will kindly give me a copy of that letter, I will have that verified at the office by the actuary of the company and then I will have a proper explanation given. The probability in regard to that, although, as I say, I decline to enter into any discussion of that kind—the probability though is that that man had what we call a reduced-rate policy, which, following some years ago, an attempt to reduce the rates of the company, a rebate, as it was then called, was offered to the policyholders of 30 per cent. upon their first premiums, and that met with such opposition, mainly from other companies, that the matter was finally compromised by issuing a class of policy on which the premiums were reduced 15 per cent. in perpetuity, and the opportunity was offered to all the existing policyholders of the company to accept that reduction of premium. Many of them did so, and every one of

*Testimony of Richard A. McCurdy*

those men who accepted that has been getting by reduction of his premium 15 per cent. reduction ever since in addition to the amount which he has received annually, if it be an annual dividend policy, ever since.

BY MR. HUGHES:

Q. When was this, did you say? A. Oh, a good many years ago.

Q. How long ago about? A. Well, I should think just before I became president.

Q. Now, I call your attention to a policy—— A. If you will allow me to finish my remarks, I say——

Q. Certainly. A. Judging from the record he gives of his dividends, that is probably one of those reduced rate policies and bears no relation to the dividends of the company declared upon policies which have been issued since then and have paid the regular rates since the rates were again restored. After trying that reduced rate system for a while it was found unsatisfactory, and mainly for that reason, that people forgot all about the fact that they were already getting in advance a dividend of 15 per cent, which, with interest added and so on was something more than 15 per cent, and became dissatisfied with their policies, so we abandoned that and restored practically the former rates. But with that explanation and with the remark that if you will give me a copy of that letter, I shall be very happy to have the facts looked into and see whether the man understands what he is writing about and whether the facts are as stated—I do not know that they are so at all——

Q. Yes, and I will also furnish you with what I understand to be copies of letters written by your company, this matter having been a subject of correspondence with your company, as I am advised, for some time. Now, I stated in my original question



*Testimony of Richard A. McCurdy*

that this was a case of a ten payment life policy taken out in 1865 and paid up in 1875, and I call your attention to the fact that after it became paid up and the following year the dividends credited was \$55.50 and that through the period of your administration, and during the time that the business had so marvellously increased, as its assets have so greatly increased, the dividends credited upon this policy have continuously diminished. Do you know why that is? A. I beg your pardon, for in consequence of the letter and the repetition of so many figures, I have forgotten that you said it was a paid up policy. But I say, as I said before, that if you want to discuss the question of dividends, and all that sort of thing, you have got to go to the actuary of the company.

Q. Do you not know that it has been the claim of your company that the excess interest which it has earned in recent years has been falling off, so that dividends could not be paid at the same rate or declared or credited to the same amount as in former years? A. I decline to go into any such discussion at this time and place.

Q. The reason I take it up with you, Mr. McCurdy, instead of calling at once for the actuary, is that you have seen fit to present here a great many figures in connection with the fact that your salary has been largely increased, figures which tend to show the great prosperity of this company, indicated in many ways; its growth in assets and its growth in business; I want to know whether you know that the prosperity of the company has been indicated or the reverse has been indicated in the amount of interest that has been earned and the amount of dividends which it has been able to credit upon its policies? A. I believe that every one of the facts and figures submitted by Mr. Beck are accurate. I believe that the company's prosperity is greater now than it ever has been. But beyond that, I respectfully reassert that I decline to enter into any of that kind of calculation, for your best witness is the actuary of the company, and he is the most competent to deal with it.

*Testimony of Richard A. McCurdy*

Q. Is it a fact that the gains from excess of interest which were applicable to paid up policies were one-third in 1904 of what they had been in 1903? A. Probably not, but I decline to discuss the question.

Q. Why do you say probably not. I do not want a discussion, I want a fact. If you say you do not know, we shall accept that statement? A. Very well, then, I withdraw the word probably and I say I decline to discuss it.

Q. Do you know? A. I decline to discuss it.

Q. Do you decline to answer? A. I decline to discuss that question when I proffer you a witness whose business is to discuss just that very kind of question.

Q. Well, I will read you another letter from a New York policyholder which will also be subject to your examination for purpose of correction or criticism in any manner.

It is under date of October 6, 1905:

"I beg to call your attention to the small dividends which the Mutual Life Insurance Company of New York allow their policyholders. These figures would indicate that policyholders are not receiving the full share of profits due them, and I trust you may consider the subject of sufficient importance to deserve a thorough investigation.

I am the holder of life policy 103,592 for five thousand dollars, dated October 30, 1869, subject to forty semi-annual premiums of \$77.05 which extended to April 30, 1889. I paid all premiums promptly, and allowed the dividends to accumulate. For these dividends, the policy has been credited additional insurance, payable at death, with the original amount insured, as per memorandum attached. You will notice a very material reduction in recent years. The memorandum attached is as follows:

Dividends turned into additional insurance, credited to

*Testimony of Richard A. McCurdy*

policy 103,592, of the Mutual Life Insurance Company of New York:

|                       |         |
|-----------------------|---------|
| January 1, 1870.....  | \$38.68 |
| “ 1871.....           | 107.70  |
| “ 1872.....           | 112.48  |
| October 30, 1872..... | 149.96  |
| “ 1873.....           | 125.09  |
| “ 1874.....           | 105.48  |
| “ 1875.....           | 125.07  |
| “ 1876.....           | 125.25  |
| “ 1877.....           | 125.29  |
| “ 1878.....           | 131.00  |
| “ 1879.....           | 132.00  |
| “ 1880.....           | 134.00  |
| “ 1881.....           | 127.00  |
| “ 1882.....           | 129.00  |
| “ 1883.....           | 133.00  |
| “ 1884.....           | 136.00  |
| “ 1885.....           | 139.00  |
| “ 1886.....           | 124.00  |
| “ 1887.....           | 126.00  |
| “ 1888.....           | 108.00  |
| “ 1889.....           | 110.00  |

It is to be noted that the policy became paid up in 1889. After that the dividends credited are stated to be as follows:

|                       |         |
|-----------------------|---------|
| October 30, 1890..... | \$49.00 |
| “ 1891.....           | 49.00   |
| “ 1892.....           | 50.00   |
| “ 1893.....           | 50.00   |
| “ 1894.....           | 30.00   |
| “ 1895.....           | 31.00   |

*Testimony of Richard A. McCurdy*

|                       |         |
|-----------------------|---------|
| October 30, 1896..... | \$31.00 |
| “ 1897.....           | 31.00   |
| “ 1898.....           | 26.00   |
| “ 1899.....           | 21.00   |
| “ 1900.....           | 21.00   |
| “ 1901.....           | 21.00   |
| “ 1902.....           | 21.00   |
| “ 1903.....           | 22.00   |
| “ 1904.....           | 7.00    |

Have you any statement in answer to that letter? A. The same as I said before, sir.

Q. Do you know any reason why the dividends should have been seven dollars in 1904 and twenty-two dollars in 1903? A. Probably because the time when, according to the tables, we are expected to pay that policy, was a very short one. However, as I said before——

THE CHAIRMAN: I don't get that answer.

MR. HUGHES: I did not understand it.

(Answer read by the stenographer.)

Q. What has that to do with it? A. That has a great deal to do with it.

Q. Explain how? A. Mr. Hughes, I will not be drawn into this discussion at all. I proffer you a very capable witness, a gentleman who has been the actuary of this company for a great many years, who I think has the very distinguished honor of being the only fellow of the Institute of Actuaries of Great Britain, and I tender his services to you in answer to all these questions.

*Testimony of Richard A. McCurdy*

Q. We expect to examine him, but we are now examining you. A. Very well.

Q. And you are the president of the company? A. So I am.

Q. And I want to know if you know any reason why there should be this gradual reduction of dividends? A. You have the advantage of getting that letter on record and I decline to discuss it.

BY THE CHAIRMAN:

Q. Mr. McCurdy, what relation does the maturity of a policy bear to its earning power, to the amount of its dividends? Why should they be less as it nears maturity? A. Mr. Chairman, I want to treat the Committee and yourself with the utmost respect, but I claim, as I have said before, that I am neither the cashier, nor the treasurer, nor the actuary of this company. There are other persons who are especially designated by the Board of Trustees to fill those positions.

THE CHAIRMAN: If you will pardon me, your reply to a former question was that probably this diminution in dividends was because of the near approach of the maturity of the policy, and that is unintelligible on the record to us, unless you explain it.

A. Very well, I say, as I said before, there is competent authority who will explain that answer to the satisfaction of the Committee, and if I begin on that—probably it was an error of judgment to have made that much—if I begin on that thing I shall be led into a wilderness of questioning and cross-questioning that I am not the proper officer to be submitted to.

THE CHAIRMAN: Mr. McCurdy, this Committee is here not to lead you into a wilderness of cross-questioning, but I think you hardly apprehend the true position of the

*Testimony of Richard A. McCurdy*

Committee and its counsel. We are here to recommend proper legislation in this matter, and unless you gentlemen who have been all your lives gathering this information give it to this Committee to the best of your ability how can we get it? A. I am going to give it to you by the best and most competent witness you can summon. The actuary of the company is the proper one to answer these questions.

Q. Well, if the Committee prefers your knowledge, and your judgment, based on your experience, you mean you prefer not to give that? A. If it is a matter of preference, I have my own preferences too. If it is only a matter of preference on the part of the Committee, with due respect, my preference is to adhere to the position I have taken.

THE CHAIRMAN: Go right ahead, Mr. Hughes.

BY MR. HUGHES:

Q. I will put once more the question, whether the Mutual Life have not explained the decrease in dividends credited upon paid up policies upon the ground that the excess of interest earned by the Mutual Life out of which the credits would come, has been less in recent years than formerly? A. Whatever official utterances the Mutual Life Insurance Company make and have made, can be proved by their production and putting them on the record and not by my oral evidence with regard to things that I may not recollect.

Q. It would be pertinent to inquire whether the returns obtained by the Mutual Life investments were at such a reduced rate as to force it to reduce such dividends, whether it was proper for the Mutual Life to increase the salaries of its executive officers, and with that suggestion, I would like to know what you have

*Testimony of Richard A. McCurdy*

to say on the point? A. You may think it is pertinent to make that inquiry, but I don't choose to discuss it.

Q. Well, whether you think it is pertinent or not, have you anything to say on that phase of it? A. I have merely to say that when my salary was introduced here in this discussion I declined to discuss it in a self-commendatory way. I don't care to. I have not fixed my salary. I have never been over fond of self-advertisement, and I am not here to justify my salary. Other people fixed that.

Q. If you were determining without reference to any matter of personal interest, what the salary of the president of your company should be, would you think it proper to take into consideration the diminishing returns from investments and the consequent diminution in the dividends paid upon policies? A. I am not considering any such condition or proposition.

THE CHAIRMAN: The question was, Mr. McCurdy, whether you think it proper to consider it, not whether you are considering it.

A. I don't see how you are going to—I don't see how you are going to cross-question a man upon his own inmost thoughts, that you can prove.

BY MR. HUGHES:

Q. Not unless he is willing frankly to reveal them. A. Very well.

BY THE CHAIRMAN:

Q. And not while he reserves the privilege of submitting to the

*Testimony of Richard A. McCurdy*

Committee so much or so little as he chooses, as he prefers.  
A. Isn't that the nature of the——

Q. That isn't the way to solve this situation that we have got before us, Mr. McCurdy A. It is not what?

Q. That is not the way to solve this situation that we have got before us in my opinion, although in your opinion it seems to be.  
A. Well, in my opinion this investigation is quite different from a trial. There are no issues framed here, there are no allegations except of a very vague character, that I am aware of, such as contained in these letters. I am answering somewhat at random to draw my opinions out, anyway. Witnesses are subpoenaed here by the counsel for the Committee, he produces them as his witnesses, when he immediately proceeds to impeach their testimony. If I never knew any, if that is trying anything here according to the rules of evidence, I have forgotten what little law I ever did know, which wasn't much.

Q. Mr. McCurdy, I don't think you will consider me impertinent, but might I ask you how you would conduct this investigation if you were a member of the Legislative Committee, how differently you would do it? A. I don't know. I assume that the Committee, of which you have the honor to be chairman, and rather a worthy chairman—I assume they have given this subject very serious consideration and are conducting this investigation in the manner that seems to them proper. I don't impugn the motives of the Committee in the slightest degree.

Q. But if there is a better way to get at the facts than we are doing, we would be very glad to get even that assistance? A. Nor the motives of counsel. I don't impugn them in the slightest degree. What I would do under circumstances that are not here in issue I don't know. I should certainly give it very grave consideration, the way I presume the Committee have given. At the same time, I take the liberty, with your indulgence, to express



*Testimony of Richard A. McGurdy*

my feelings on the subject with great candor, and I am much obliged to you for the opportunity.

BY MR. TULLY:

Q. You said a few moments ago, Mr. McGurdy, that you did not think this Committee was conducting the investigation along the lines that the Legislature laid down when they originally appointed the Committee. Will you kindly give us your idea of the lines laid down by the Legislature at the time the Committee was appointed? A. I have forgotten the exact wording of the resolution, but it was to be an investigation of the conditions of life insurance.

Q. The conditions and affairs of life insurance. A. The conditions and affairs of life insurance.

Q. And quite as broad as the English could make that resolution? A. I don't think I quite caught that expression of yours, but at any rate it seems to me that is an opinion which I have no right here to express, excepting by your own courtesy. It has seemed to me that the conduct of the investigation so far was quite outside of what the Legislature probably contemplated.

Q. In other words, that we were perhaps becoming too thorough? A. Not at all; not at all; take for instance now—I don't know as I have any right to argue with the Committee at all excepting as you are willing to listen to me—take the case here of a witness presented before this Committee. He is not permitted to know even in advance, as I have said before, what the subject of his evidence is to be; you don't ask him, or counsel does not ask him in a kind and considerate way, now we want to know your opinion about thus and so and we want to know certain facts. Give him time to make the proper inquiries and ascertain the facts and let him state the things in his own way. Then I should say—it may be an impertinence even to suggest such a thing

*Testimony of Richard A. McCurdy*

—that after you have heard this witness tell frankly and candidly all he has got to say about it, then it would be very proper for this Committee to take this up in executive session and discuss it and form their own conclusions on the subject, whether in justification of the witness's position or not. But put him on the stand here and swear him to tell the truth and make him feel when he is brought here that the object is not—make him feel that, whether rightly or wrongly—probably wrongly,—but to make him feel, as I have said, that he is put on the rack and that the object is to ruin him, if possible, in public estimation, and try to distort, as in the case of my own testimony has been the case, to distort questions and answers and evidence and put a wrong construction upon them, why should the witness shut his mouth up and say just as little as he can. I don't say that that is my case. I try to draw the distinction between those things which I ought to say and which I ought not to say, and when I proffer you, as I say, on such questions as these the evidence of a man who is infinitely my superior, and the superior, so far as I know and believe—no, that I won't say, because that would be discourteous to other gentlemen.

BY MR. COX :

Q. What is the salary of this man you refer to? A. \$35,000.

BY MR. HUGHES :

Q. Are you through, Mr. McCurdy? A. Oh, I ought to have finished a long time ago, Mr. Hughes, and ask pardon for being so prolix.

Q. I hope you won't think I want to curtail your remarks, because I don't. A. No; I am afraid I have given you too many opportunities; I have given you too much chance.

*Testimony of Richard A. McCurdy*

Q. You have now a very excellent opportunity to raise this investigation to a high plane and tell the Committee frankly and candidly what you, as an insurance man of 48 years' experience, think of these declining dividends, but you decline to do it? A. I decline to go into it, as I said before. You can't budge me from that.

Q. In order that it may appear that these matters to which I have referred are not isolated, I will call your attention to one or two more. A. Go ahead. Get them in the record.

Q. Yes, and bring them to your attention. I have here a letter by one of your policyholders, an eminent man, I believe, who says, under date of February 30, 1905: "In February, 1865, I took out a ten-year policy of \$6,000 in the Mutual Life, on which I paid a yearly premium of \$329.60, completed my payments in February, 1875. The dividends or additions for the first ten or fifteen years were as high as \$90 per annum, and as far as I can remember not less than \$40 to \$50 per annum. The dividends afterwards became less and less, but having been a very busy man I paid no attention to that, and kept no account of them until two or three years ago, when they dwindled down to an absurdly low figure. Last February I received notice that the total additions to my full paid-up policy, paid up in 1875, amounted to about \$1,760, and that the addition for the year ending February, 1905, was \$7.00." Do you desire to make any statement with reference to that? A. I do not, sir.

Q. I have here a letter from a prominent lawyer of this city in which he states the following as the facts concerning his policy:

In my thirty-second year, on May 28, 1884, the Mutual Life Company issued its policy, No. 252,838, and therein it promised on my death to pay to my wife, if living, or, if dead, our children, the sum of \$5,000; premiums of \$71.35 each to be paid by me to the Company semi-annually for twenty years on the 28th days of May and November in each year. The premiums have all been

*Testimony of Richard A. McCurdy*

duly paid, and none of the dividends have been withdrawn in cash, so that since November 28, 1903, nothing has remained to be done to entitle my wife or children on my death to the \$5,000, promised in the policy and to the just proportion of the profits realized by the Company during the period the policy was in force.

Annual dividend statements have been sent to me, and therefrom I have compiled the following table, which shows in the first column the dates when the dividends were payable in cash, or at my option, to be credited as additions to the principal amount of insurance, and in the second column the cash value of the dividends, and in the third column the additional insurance value. The fourth column shows the total of premiums that had been paid at several dates.

| Dates             | Dividend<br>Cash Value | Dividend<br>Addition to<br>Policy Value | Total of<br>Premiums<br>Paid to Co. |
|-------------------|------------------------|-----------------------------------------|-------------------------------------|
| May 28, 1885..... | \$16.85                | \$45.00                                 | \$214.05                            |
| 1886.....         | 14.88                  | 39.00                                   | 356.75                              |
| 1887.....         | 15.73                  | 41.00                                   | 499.45                              |
| 1888.....         | 12.71                  | 32.00                                   | 642.15                              |
| 1889.....         | 13.68                  | 34.00                                   | 784.85                              |
| 1890.....         | 10.04                  | 25.00                                   | 927.55                              |
| 1891.....         | 11.06                  | 27.00                                   | 1070.25                             |
| 1892.....         | 12.16                  | 29.00                                   | 1212.95                             |
| 1893.....         | 13.02                  | 31.00                                   | 1355.65                             |
| 1894.....         | 7.51                   | 17.00                                   | 1498.35                             |
| 1895.....         | 9.50                   | 21.00                                   | 1641.05                             |
| 1896.....         | 10.40                  | 22.00                                   | 1783.75                             |
| 1897.....         | 11.31                  | 24.00                                   | 1926.45                             |
| 1898.....         | 12.10                  | 25.00                                   | 2069.15                             |
| 1899.....         | 12.97                  | 26.00                                   | 2211.85                             |
| 1900.....         | 13.97                  | 28.00                                   | 2354.55                             |

*Testimony of Richard A. McCurdy*

|           |          |          |         |
|-----------|----------|----------|---------|
| 1901..... | 15.02    | 29.00    | 2497.25 |
| 1902..... | 16.08    | 30.00    | 2639.95 |
| 1903..... | 16.64    | 31.00    | 2782.65 |
| 1904..... | 10.07    | 18.00    | 2854.00 |
| 1905..... | 2.73     | 5.00     | 2854.00 |
|           | <hr/>    | <hr/>    |         |
|           | \$258.43 | \$579.00 |         |

I ought to say that I have mislaid the dividend statements for 1891 and 1893, but the subsequent statements show what the additions to policy value for each of those years were, and therefrom I have estimated the cash value. I have all the statements except for those two years.

This table develops conclusively the fact that the Company's enormous increase of business and of surplus during the years the policy has been in force has not resulted in any increase of dividends to the policyholders.

It also shows conclusively that the cash value of the annual dividends bears no relation whatever to the amount of premiums received by the company. The largest cash dividend was that payable May 28, 1885, at which time the company had received only \$214.05 in premiums, and the smallest was that payable May 28, 1905, at which time the company had received from me in cash \$2,854, and had had the use of the money to a value which, calculated for me at the usual savings bank rate of four per cent., and by usual savings bank methods, amounts to \$1,221.20—total \$4,075.20. My dividend in 1885, on an investment of \$214.05 was \$16.85. My dividend in 1905, on an investment of \$4,075.20, was \$2.73.

The agent through whom my policy was negotiated appeared to me to be a very straightforward man and to have a thorough knowledge in detail of the affairs and history of the company. He knew well what the theory of the com-

*Testimony of Richard A. McCurdy*

pany's managers had been prior to the issuance of my policy, and what the advantage to policyholders had been from successful management in accordance with that theory; and he evidently had no suspicion that, within twenty years, the good old theory and practice would be abandoned. In the letter which this expert sent me with my first dividend statement, he said: "The above is probably the smallest dividend you will ever receive." In fact, it was the very largest.

My policy has been in force more than twenty-one years. If I were to die to-day, the amount which, according to the company's figures, would be payable to my wife or children would be only \$579 in excess of the face of the policy. Apparently I must not expect that this sum will hereafter be increased by any considerable amount, no matter how many years longer I may live; for the following notice accompanied the dividend statement of 1904:

“THE MUTUAL LIFE INSURANCE COMPANY OF  
NEW YORK.

Richard A. McCurdy, President.

NOTICE AS TO FUTURE DIVIDENDS.

“Inasmuch as this dividend consists to a great extent of a return of part of the premiums paid under this policy, and as no other premiums are payable thereunder, there can be no such over-payments to refund hereafter. Future dividends on this policy will, therefore, be very much smaller in amount than the present one.”

It is instructive to compare the result in my case with various statements of the payment of death claims which were sent to me from time to time during the earlier years of my policy. These statements do not show exactly how long any

*Testimony of Richard A. McCurdy*

policy mentioned therein had been in force at the time of the death of the insured, but I select from them several items where the amount of the excess paid over the face value of the policy and the serial number of the policy indicate that the policy had been, like mine, in force for a good number of years.

Statements for death claims paid for the weeks ending May 23, 1884, and October 31, 1884, contained the following items:

| No. of Policy. | Policy. | Dividend |
|----------------|---------|----------|
| 544            | \$2,000 | \$1,689  |
| 4550           | 10,000  | 7,454    |
| 9226           | 2,000   | 1,468    |
| 159068         | 750     | 447      |
| 18673          | 10,000  | 5,968    |
| 26213          | 5,000   | 4,143    |
| 22662          | 2,500   | 2,698    |
| 59012          | 5,000   | 3,023    |
| 69194          | 5,000   | 2,934    |

The foregoing nine policies, with their large dividend additions, were paid in 1884, before the theory of high surpluses had begun to be put in operation. In no case was the dividend less than fifty per cent. of the face of the policy, and in most cases it was very much more. In my case the dividend, according to the notice given me, will be only about twelve per cent. of the face of the policy, and this will be so even if I live so long that the company will have the use of the premiums longer than it had in any of the above cases. If I were to live beyond the age of ninety and be credited annually with dividends like that of May 28, 1905, the total of all the past and future dividends would be \$764, which is less than sixteen per cent. of the face of my policy.

The following death claims paid during four months of 1897

*Testimony of Richard A. McCurdy*

are taken from "The Weekly Statement issued by the Mutual Life Insurance Company of New York" of November 17, 1897:

| Policy No.              | Original Insurance | Dividend Additions on Policy. | Total Premiums Paid by Insured. |
|-------------------------|--------------------|-------------------------------|---------------------------------|
| 4,966                   | \$700              | \$810                         | \$544.25                        |
| 5,257                   | 5,000              | 7,137                         | 4,342.50                        |
| 5,639                   | 2,000              | 2,114                         | 1,638.43                        |
| 6,697                   | 2,000              | 1,566                         | 964.74                          |
| 6,988                   | 500                | 629                           | 358.60                          |
| 9,191                   | 5,000              | 9,455                         | 6,039.50                        |
| 9,369                   | 5,000              | 7,111                         | 5,184.20                        |
| 10,196                  | 5,000              | 3,128                         | 2,618.29                        |
| 11,726                  | 1,000              | 672                           | 559.56                          |
| 13,225                  | 1,000              | 1,351                         | 875.16                          |
| 15,780                  | 3,000              | 510                           | 415.17                          |
| 14,505                  | 500                | 4,058                         | 2,932.50                        |
| 16,787                  | 1,000              | 1,050                         | 735.93                          |
| 17,160                  | 1,500              | 1,621                         | 1,208.46                        |
| 19,171                  | 3,000              | 3,946                         | 2,935.20                        |
| 20,770                  | 1,000              | 660                           | 605.52                          |
| 22,836                  | 2,000              | 2,587                         | 2,297.52                        |
| 23,652                  | 2,000              | 2,149                         | 1,749.52                        |
| 26,286                  | 1,000              | 1,031                         | 908.28                          |
| 28,306                  | 2,500              | 1,849                         | 1,817.21                        |
| 31,764                  | 4,000              | 2,417                         | 1,415.29                        |
| 33,189                  | 1,000              | 870                           | 413.60                          |
| 41,623                  | 2,000              | 1,593                         | 1,077.20                        |
| 43,448                  | 5,000              | 3,868                         | 2,751.00                        |
| 86,259                  | 2,000              | 1,124                         | 1,062.07                        |
| On Twenty-five Policies | \$58,700           | \$63,306                      | \$45,469.70                     |



*Testimony of Richard A. McCurdy*

The serial numbers of these twenty-five policies indicate that in 1897 they had been in force considerably longer than mine has been now. But it is nevertheless fair to compare them with mine because I have been notified that the dividend additions to my policy will not be materially increased hereafter. On the other hand, the fact that they had been running for a long time indicates that their great profitableness is due to early rather than recent methods of management. Note that in every one of these twenty-five cases the dividend addition to the policy exceeds the total premiums paid, while in my case the ratio is \$579 of additions to \$2,854 of premiums paid; and that in seventeen of the twenty-five policies the dividend additions exceed the face value of the policy, and that in none of them is the dividend addition less than fifty per cent of the face value of the policy, while in my case the dividend addition is under twelve per cent of the face value of the policy. Note also that the average of the premiums paid to the Company on the twenty-five policies is only \$1,818.79, as against \$2,854 in my case.

I will omit the rest of the letter, which is the general list.

Q. Now, have you any comment to make upon the suggestion of the writer of this letter, whose name there is no objection to showing you, and I have no doubt you know him well, with regard to the consequences of the poor recent methods of management and the expenses that are incurred in obtaining business?

A. I have not followed very closely the figures given. In fact, they are too long and too many for anybody to carry in their head, critically or very carefully. You are entitled, Mr. Hughes, to get your case in in your own way, and you do not have—well I have no doubt whatever that every one of the cases cited in the letter that you have read to the Committee can be either successfully controverted or reasonably explained, and proper reasons given by competent persons and from the undisputed records of the books. I say, I hope you won't think that the remark is too trivial

*Testimony of Richard A. McCurdy*

for the occasion, it is a piece of facetiousness that has sometimes been used, but it is said that figures do not lie but liars can figure, and with that—I know of so many cases to which that is applicable—I do not apply it to anyone in particular, but there has been so many cases that I think, excepting for the facetiousness of the illustration, it is a fair answer to make to your question.

Q. You have no knowledge which will enable you to contradict now any of the facts which are stated here? A. Whatever knowledge I may have would probably be derived from the facts and figures contained in our books, which are not within my possession.

Q. Would you be able to state that the course of business has been such that you have been unable, as a company, to earn the amount of money which you could earn thirty years ago, and that that in large part explains the amount of dividends which were formerly paid? A. I could not state anything about it.

Q. Is it not a fact that along with a decrease in the rate of interest has gone a very large increase in the expense of your company? A. I am not going to be led into anything of that kind, Mr. Hughes.

Q. Do you, as president of your company, do anything in the direction of supervision of the expenses of the company in relation to its receipts? A. In a general way, yes. I testified the other day I had been endeavoring to reduce expenses always.

Q. Will you state, now that you have had several days to think the matter over, and are fairly well acquainted with the line of examination, what you have done to reduce the expenses of your company? A. Well, you make a suggestion there that I think it is only fair that I should meet before I proceed to answer your question in any other way. You say now that I have had several days to think it over. I think you do not fully appreciate, Mr. Hughes, the very great interruption to my time and to any consecutiveness of thought that this inves-

*Testimony of Richard A. McCurdy*

tigation and your very adroit conduct of the case has produced. As a matter of fact, I have not had any time for anything during the last week. I do not take this thing home with me. My daily duties begins—I am a country man, I come to town on a boat that leaves Hoboken ten minutes after nine. A good many of my associates live out there. I begin my business when, according to my rule that I have established, when the ferryboat leaves the Jersey shore and it goes on until the ferryboat reaches the Jersey shore in the afternoon. And when I get home I claim a little respite from a pretty arduous day, and after I have had my dinner I read a novel and go to bed and I try not to bother my mind with the investigation. If I did, I don't know what might happen. Now, as a matter of fact, my day in New York is so much taken up with the interruptions that this investigation has produced, that I do not have time to think of anything, and think very little about it. I come here, as I said before, practically unprepared, practically at your mercy.

Q. Well, however you may come, will you state just what you have done that you are able to recall to reduce the expenses? A. I say that I have done everything that it is possible for me to do, and I cannot give you a catalogic résumé of all that might happen to be in detail.

Q. Well, do you reduce salaries? A. Ah (laughter)—Oh, you are entitled to the laugh, but let me see how I will answer that. I did not fix my own salary, as I told you before. Other people fixed it—

Q. Or reduce it? A. No, I did not reduce it, and do not mean to do it myself anyhow, whatever other people may do.

Q. Well, did you even suggest, recommend or enforce the reduction of anybody's salary? A. Yes, practically—in the explanation that I partially gave you at the last meeting, of the introduction of the classified system of salaries. That

*Testimony of Richard A. McCurdy*

was an effort to reduce a constant tendency to increase salaries without the opportunity of due consideration and the knowledge of what—of whether in many cases they were adequate or inadequate or excessive.

Q. What salaries do you refer to now? A. I refer to the salaries of the general force of the company.

Q. The clerical force? A. The clerical force, yes (laugh-ter). All right, if you want me to go further than that and say that I did not attempt to reduce the salaries of any of the executive officers, I am perfectly willing to admit it. I do not think any one of them is overpaid, for the conditions in which they live and move and have their being and for the character of the business which they do. I see a smile went over the room when I answered, and the very eminent gentleman that I referred to, the actuary of the company, receives \$25,000. The same rules of compensation do not apply to all callings. The papers have talked about the salaries received by professors in college and ministers of the gospel and so on. Why, I doubt, without mentioning any names, whether some clergymen who have recently expressed themselves in public would make very good managers in financial institutions or be worth anything to their companies.

Q. How much did you succeed in saving to the company by the reduction of salaries of the clerical force? A. Oh, that I don't know. We could look into that if you would like to be informed.

Q. Well, with regard to general agencies, have you saved any money to the company there? A. I could have saved a good deal more if I had been able to carry out the reforms that I started to carry out when I was elected president twenty years ago.

Q. Well, have you effected any saving? A. Yes.

Q. In what way and in what amount? A. In the changing

*Testimony of Richard A. McCurdy*

very largely of what was known as the general agency system to the managerial system, which has already created a saving and as the years go along will create a very great saving in the expenses of the company.

Q. Now, it is proper that you should state, and I am glad to give you the opportunity to state, just what that saving is? A. Oh, as to figures?

Q. Yes, roughly, I do not mean as to exactitude? A. I have not got the figures in my head. That must be left to the calculation of the expenses of each general agency. There is a difference all over the country, and when after the first two or three years in the managerial system and substitution of salaries for commissions, it involves an increased expense for a year or two and thereafter it is a very great reduction. That nobody could assume without the statistics before them.

Q. Have you looked after the amount of your legal expenses in any way to see if they could be reduced? A. Well, I am trying to give you as straight an answer as I can. I have, yes. I recall one instance in particular that I did.

Q. Well, has your attention been called to the fact that, according to the reports, your legal expenses last year were largely in excess of those of the other two great companies? A. Well, I am not concerned with the statements made by other companies. Whether the expenses of the legal department of the Mutual Life Insurance Company were in excess or not, that is a matter that I take no interest in. You ask me whether I ever endeavored to reduce the expenses of the legal department. I did a few years ago and had a long and serious conference with the general solicitor. I had submitted to me the names of every counsel and local attorney in the United States who transacted business with us, who had our general retainer and who charged it up religiously every year on his

*Testimony of Richard A. McCurdy*

books, on his registers, and who sent us a bill every year containing the statements of what he had done in the courts and elsewhere, and I directed that many of the counsel who had been representing the company for many years should be dropped. I directed that a great many suits that were on the calendars and which had been lingering there for many years should be disposed of in one way or another, and I think I effected a very considerable saving there. I could not give you the amount now.

Q. Did you know that checks for \$25,000 each were drawn last year, or moneys to that amount were drawn last year by Robert Olyphant as chairman of the expense committee, and turned over, according to the testimony, upon executive order, to Mr. Short? A. No.

Q. Did you ever hear of that before the testimony was elicited? A. It would not be within my official knowledge, no.

Q. Can moneys be drawn for confidential legal expenses so that the actual service rendered does not appear in any voucher in your company without your sanction? A. Why, certainly, as I told you before.

Q. To the extent of \$100,000 in a year? A. As I told you before, I cannot stand at the cashier's window all day long and watch vouchers pass through.

Q. Do you ever take occasion to inquire in order to ascertain whether large amounts are being disbursed for legal expenses in a confidential way where the Mutual Life has no vouchers showing the services? A. If I had any reason to suppose that any improper transactions were being carried through, I should inquire into them, of course.

Q. How could you tell whether the transactions are proper or improper when you don't know what they are? A. Be-

*Testimony of Richard A. McCurdy*

cause it would come up in the way of suggestion or incident from some other men.

Q. Has it come up in such a way? A. No.

Q. When did you talk over with Mr. Short the question of disbursements for legal services and the men who were upon the payroll of the company? A. I think it was within three years past.

Q. Who is James F. Pierce? A. There is not any James F. Pierce. He is dead.

Q. Who was he when he was alive? A. He was a lawyer in this city, living in Brooklyn.

Q. When did he die? A. I believe he died early in the year. I have forgotten exactly.

Q. This year? A. This year, I think.

Q. Was he formerly Superintendent of Insurance of the State of New York? A. Yes.

Q. When did he cease to be such superintendent? A. You probably have got the record.

Q. No, I have not the record of that. A. Haven't you?

Q. No. A. Well, I do not carry it in my mind. If you have the figures there I will admit them.

Q. I asked you when he ceased to be superintendent? A. I don't know. It is a matter of record.

Q. How long was he under regular retainer by the Mutual Life? A. Well, since he left the Insurance Department.

Q. I have a reference here to an amount paid him in 1900. Do you know whether he was paid anything before that? A. I really could not tell. Whatever your records show, if they are from the books they are undoubtedly correct.

Q. I have stated I have your record for 1900, but not back of that. Can you tell me approximately, and subject to correction, for how long a time he was on the payroll of your

*Testimony of Richard A. McCurdy*

company? A. Since he ceased to be the Superintendent of the Insurance Department.

Q. (Handing paper.) I show you a voucher dated January 25, 1905, as follows: "Vice-President's Office. Cashier, please deliver a check to the order of James F. Pierce and send to me. W. R. G., V. P. Twenty-five hundred dollars," with a receipt dated January 25, 1905, "Received of the Mutual Life Insurance Company of New York, Twenty-five hundred dollars for professional services, \$2,500.00. (Signed) James F. Pierce." What professional services did Mr. Pierce render for that? A. I could not say, sir.

Q. Do you know what the age of Mr. Pierce was when he died? A. I do not.

Q. Was he not about 75 years old? A. I have no idea.

Q. Had the Mutual Life paid to Mr. Pierce \$2,500 a year for some years? A. I don't know. The books will show it probably if it did.

Q. You know he was under retainer for many years? A. I know he was under retainer by Mr. Short, I believe.

Q. Do you know the amount of the retainer? A. No. How should I?

Q. Was he retained without your knowledge or approval? A. I probably was cognizant of the fact.

Q. Was not retainer by your direction? A. Not to my recollection or belief.

Q. According to the best of your belief, who directed his retainer? A. I could not say. When did he begin?

Q. I understood you to say as he ceased to be Superintendent of Insurance? A. Yes. I could not say at this length of time.

Q. Well, can you say what professional services he ever rendered? A. He never rendered them to the executive, that I am aware of. Whatever professional services he rendered



*Testimony of Richard A. McCurdy*

he rendered to the law department, I assume, that being the proper department of the company that took charge of the retaining of counsel and supervised the retainers paid them or the payments for their professional services from time to time as they accrued.

Q. When you went over the roll of lawyers retained by the company with Mr. Short two or three years ago, did the question of Mr. Pierce's retainer come up? A. Not that I recall, no.

Q. Did you endeavor to find out what he had been doing for which he received this money? A. I don't know that it was ever called to my attention.

Q. In such endeavor to reduce the legal expenses nothing at all was said about that retainer? A. Not that I am aware of.

Q. Who is Charles P. McClelland? A. He is a lawyer, I believe.

Q. Has he been for some time employed by your company? A. Not to my knowledge definitely.

Q. Well, why do you say definitely, that you don't remember the exact particulars? A. Yes.

Q. But you do not question the fact of his retainer? A. Not—Now, I want to make myself as clearly understood as possible, and it needs a little explanation. I have seen in some of the newspapers lately, some of the reporters' columns, that Mr. McClelland had been retained by the Mutual Life Insurance Company of New York. His firm—I believe he has a partner, I don't know who it is—he has an office in the Mutual Life Building. I don't know that I ever saw Mr. McClelland but once in my life, but I have seen it stated in the papers that he had been retained by the Mutual Life. I have no reason to doubt that he was retained by the Mutual Life. Well, that is not what I want to say exactly. I mean to say, it having been stated in the papers that Mr. McClelland had been retained by the Mutual Life, I presume it

*Testimony of Richard A. McCurdy*

is the fact, although that is a presumption that is rather a violent one with regard to many things you see in the newspapers.

Q. Did you direct Mr. McClelland's retainer? A. No, sir.

Q. Do you know what sort of business he attended to? A. I don't know that he ever did attend to any excepting what I saw in the newspapers, as I have just remarked.

Q. I show you the following vouchers in favor of Mr. McClelland, which do not state upon their face the nature of the services rendered, but merely state on account of legal services: December 17, 1900, six hundred and eighty-nine dollars thirty-two cents; January 8, 1901, which states for legal services and disbursements, twenty-seven hundred dollars; April 20, 1901, legal services and disbursements to date, \$1,458; October 7, 1901, for legal services and disbursements to date, \$1,458; October 7, 1901, for legal services and disbursements to date, \$1,000; February 14, 1902, for legal services and disbursements to date, \$750; March 31, 1902, for legal services and disbursements to date, \$2,350. Do those in any way refresh your recollection so you can state what the nature of the services were that were rendered?

A. Since I answered your first question, Mr. Hughes, I wish to correct my answer, because the subject was a new one to me and at the moment I did not recollect the nature of any legal work that Mr. McClelland may have done for us. It now recurs to me, and I shall ask permission to ask Mr. Allen if I am correct in that, that I have word that Mr. McClelland was one of the regular attorneys of the company engaged in the foreclosure of mortgages and collecting interest on foreclosed—interest on bonds. Is that correct, Mr. Allen?

MR. ALLEN: That is correct, foreclosure of mortgages.

THE WITNESS: I had forgotten that for the moment, but it now recurs to me that I have heard of that fact.

*Testimony of Richard A. McCurdy*

Q. Will you state what your practice is with regard to compensating attorneys in foreclosure cases, what do they receive, a regular retainer, or a fee or the costs that are taxed? A. Well, Mr. Allen can answer that question.

MR. ALLEN: They receive the costs which are taxed on the foreclosure and the allowance that is given by the courts.

Q. In case the Mutual Life itself takes in the property, is an allowance paid prior to the disposition of the property?

MR. ALLEN: Yes.

MR. HUGHES: I would be very glad, in order that this matter may not be misapprehended in any way, to have Mr. Allen state now if he is able to do so——

THE WITNESS: Mr. Allen, kindly answer any question Mr. Hughes may put to you.

MR. HUGHES (Continuing): Just what the matters were in which Mr. McClelland was employed and for which these moneys were paid?

MR. ALLEN: I am unable to state in detail. I know that Mr. McClelland was retained as an attorney, I know the facts, but as to the character of the services that were performed I am unable to state. He did, as I say, foreclose mortgages for the company the same as other attorneys, but to attempt to state what services were performed for which those payments were made, it is not within my knowledge and I cannot therefore say what they were.

MR. HUGHES: Do you know, Mr. Allen, whether in fact the moneys were paid for services in foreclosure suits?

*Testimony of Richard A. McCurdy*

MR. ALLEN: I do not know the facts. All I can—all the information I can give is simply from the vouchers themselves and from the general knowledge that he has been for some time an attorney on the company's books and performed services whenever he was requested to do so or retained.

MR. HUGHES: I suppose your registers will show just what foreclosure proceedings there were pending in the years I have mentioned in which Mr. McClelland or that firm appeared.

MR. ALLEN: Without doubt.

MR. HUGHES: If you will furnish me a statement of that so they can go in to-day with the vouchers I will be glad to have that done. It is not necessary to have a formal statement, just a general statement.

MR. ALLEN: Do you mean the suits showing what property was foreclosed or what data do you wish?

MR. HUGHES: Data which will show the suits in which he was rendering services, the property involved, and its disposition at the sale and the cost.

MR. ALLEN: That can be easily obtained.

MR. HUGHES: That would indicate normally what the compensation would be, and it can be compared with the vouchers.

BY MR. HUGHES:

Q. I notice one of these vouchers, December 17, 1900, has upon the corner of it the name Fields? A. What?

*Testimony of Richard A. McCurdy*

Q. The word Fields? A. Yes.

Q. Who is Mr. Fields? A. He is the superintendent of the supply department of the Mutual Life.

Q. What has Mr. Fields to do with the legal department of the Mutual Life? A. I don't know that he—well, I don't know at all.

Q. Has he ever, so far as you know, had anything to do with the retaining of lawyers for the Mutual Life? A. No.

Q. Is there any reason that occurs to you why he should O. K. a voucher for legal services? A. I don't think he did.

Q. Is that his handwriting? A. Not that I am aware of or that I believe. The O.K'ing of it constitutes the initials of I. M. L., or Isaac M. Lloyd, second vice-president.

Q. Can you explain how it is that the name Fields appears on the corner of the voucher? A. I cannot. When was this? December, 1900?

Q. Yes. A. Five years ago?

Q. Yes. A. No. I would say here, though, that the bill has been stamped "Committee on Expenditures, ordered paid December 6, 1900, signed J. H. Herrick and J. B. Holden, and the other signature I do not recollect, who was the other member of the Committee on Expenditures at that time; but Mr. Herrick was the chairman of the committee and he is now dead, unfortunately. If he were here he would probably take great pleasure in explaining the matter to you.

Q. Well, I noticed all that, but I merely wanted to know what if any explanation there is for the name Fields appearing on the voucher? A. I cannot imagine.

Q. (Handing paper). I show you a voucher dated January 12, 1905, as follows: "New York, January 12, 1905. Received of the Mutual Life Insurance Company of New York \$750 for professional services to date, \$750.00. (Signed) James R. Craig." Who is James R. Craig? A. I never heard of him.

*Testimony of Richard A. McCurdy*

Q. I call your attention to the stamp on the left of that voucher "Recommended for payment by Fields?" A. Yes.

Q. January 16th, 1905? A. Yes.

Q. The words recommended for payment and the dates being in the stamp, and "Fields" being written in ink? A. Yes.

Q. Will you explain that, please? A. I do not know whether that is his signature or not. I do not recognize it. Do you know who Mr. Craig is, may I ask?

Q. No, I do not. A. Well, I do not, and never heard of him. This seems to have been stamped in the same. It is ordered paid by the Committee on Expenditures and that is signed by—well, it is too obscure, I cannot make it out, who it was signed by, Oh, J. W. H. or—J. H. H., that means J. Hobart Herrick.

Q. This stamp of the Committee on Expenditures is as follows: "Committee on Expenditures, ordered paid January 18, 1905, \$750.00, then with certain initials, probably of the members? A. J. H. H.

Q. J. H. H. The other stamp is \$750. Recommended for payment by Fields, January 13, as I read it, 1905, and "approved for payment W. R. G." Now, it would seem from that that Fields recommended the payment, then W. R. Gillette approved the payment, and then the Committee on Expenditures ordered the payment. Is that a correct interpretation of the voucher? A. I cannot say. I never saw it before and never knew anything about the transaction.

Q. Do you know of the practice of Mr. Fields, the head of your supply department, recommending payments to be made for legal services? A. No, but there is no reason he should not if he happened to know about them.

Q. Why should he? A. Oh, I cannot tell that.

Q. What are the duties of Mr. Fields? A. Suppose you recommended a committee to make a payment for services, if you were a reputable gentleman, whether you were in the service of

*Testimony of Richard A. McCurdy*

the company, as you are—I ought to add if you are in the service of the company or not—that might very properly be noted on the margin of a voucher, that the payment was recommended by you. It might be recommended by anyone, by a dozen people who were cognizant of the services rendered or upon whom the committee relied for the voucher.

Q. Who is Mr. Fields? A. Mr. Fields, as I have told you, is the superintendent of the supply department of the Mutual Life Insurance Company.

Q. What is the supply department? A. The supply department looks after all the advertising and purchasing of stationery and things of that kind. I believe he takes care, too, of the buildings, that is, pays the janitors and I believe some four or five hundred people employed there. I think that is done through the supply department or was, that the office of the superintendent of the building, who employs these people, I think that that follows this money through the supply department, but I am not sure.

Q. How long has Mr. Fields been at the head of the Supply Department? A. I should think about possibly fifteen years.

Q. How long have you known him? A. About that length of time—why it is natural I would know him when he was so appointed.

Q. Did you know him previously? A. I am not sure. The first superintendent of the Supply Department and the last one that I recall in any case, was a Mr. Charles F. Ulrich. He died some years ago, and my impression is that Mr. Fields was his assistant, and when Major Ulrich died he was promoted to his place, so that your question I answer in that way, that if that is the fact, that he was in Major Ulrich's employment or the employment of Major Ulrich as superintendent of that department, I probably knew him more or less.

*Testimony of Richard A. McCurdy*

Q. You do not know whether he was in the employ of the company before he was made superintendent? A. No, I do not, positively. I assume that he was.

Q. But you do not know in what capacity? A. No.

Q. During the time that he has been superintendent has he had any other business that you know of? A. Yes.

Q. What was it? A. I think he has been in a general way under the direction of the Law Department. He has looked after legislation here and in other States.

Q. Has that been with your sanction? A. It was a matter that was in charge of the Law Department. If they approved it, I should have approved of it.

Q. Did the Law Department, or any official representing it, ask your approval of the course taken? A. I could not give any testimony one way or the other upon such a question as that.

Q. Don't you recollect whether or not Mr. Fields' action or employment to look after matters of legislation was with your approval? A. Oh, yes, in that sense, if you mean the general official approval.

Q. Yes. A. Of the president of a corporation, that such and such a department should be looked after by such and such a person, who was recommended as qualified for that post, yes, in that sense it met with my approval.

Q. Was Mr. Fields a lawyer? A. I fancy not, no.

Q. What were his qualifications? A. I could not tell; I did not appoint him.

Q. No, but the qualifications which led you to view his employment without disfavor? A. Oh, that is very fanciful, that I had any particular knowledge of Mr. Fields' qualifications for what ever he did, for the head of the Supply Department or anything else. He was there, and a good man, and if there was nothing against him he would get that place, and



*Testimony of Richard A. McCurdy*

so on. If for one reason or other, Mr. Short, we will say, chose to employ him for a messenger boy I should not forbid him. When I say messenger boy, I use the word figuratively, of course.

Q. Do you know where Mr. Fields is now? A. No, I do not.

Q. When did you last see him? A. I saw him sometime during the summer.

Q. Have not you seen him this fall? A. No.

Q. Do you know whether or not he has been in New York recently? A. I do not know, no.

Q. What is his condition of health, something has been said about that? A. The last time I saw him he was helped into my office by a man on whose shoulder he limped and who accompanied him in and seated him on the chair, and he had come up from somewhere down on the Jersey coast, I believe, where he had been spending part of the summer, at any rate, by the advice of his physician, and being there he came up to see me, and as the common expression is, to pay his respects to me. He was helped into the room and helped out of it, and he came up on an elevator and went down on an elevator.

MR. BECK: As you desire information about Mr. Fields, I take the liberty of handing you an affidavit by his physicians showing exactly his condition and where he now is, and will ask that it be spread upon the record.

MR. HUGHES: It will be. I offer it in evidence.

(The paper was submitted in evidence, marked Exhibit No. 271, and read by Mr. Hughes.)

MR. BECK: Will you allowe me to add that, in that affidavit, the exact nature of his illness is not stated, because I am not aware

*Testimony of Richard A. McCurdy*

that the family knows the exact nature of his trouble, but I have no objection to mentioning to Mr. Hughes confidentially and to the Committee, save it is a very serious one, and which, if stated, I think would go far toward excusing his absence.

MR HUGHES: There seems to be some discrepancy between the idea of this position and what has been stated. Dr. Judson believes that Mr. Fields has been in Southern California pursuant to his advice, whereas I understand from you, Mr. McCurdy, that he has been on the Jersey Coast during the summer.

THE WITNESS: Let me see that please. (Laughter).

THE CHAIRMAN: The Committee would prefer that those present do not manifest any emotions audibly. It does not help any and embarrasses some.

THE WITNESS: As I recollect the affidavit, I have never seen it before, and was not aware that Mr. Beck has it, as I recollect it, this doctor says that he, in April recommended him to go to the south of France or Southern California, but he does not say he went there, and I know that is not so, and that he was down on the Jersey Coast somewhere during the month of July, sometime during the summer.

Q. The doctor says he is informed and believes he is now in California. A. Yes.

Q. Have you any information or belief to that effect? A. I don't know anything about it.

Q. Is there anyone connected with your company who could tell where he is or enable the Committee to satisfy itself as to his condition? A. I don't know anything about it.

*Testimony of Richard A. McCurdy*

Q. Well, Mr. McCurdy, is there anyone who can tell where your Superintendent of the Supply Department is? A. We know generally that he is ill, and absent under the direction of his physician. We have a competent assistant, or he had a competent assistant, who is carrying on the business until we ascertain reasonably how soon he is likely to return to take charge of his duties or not. The same as it would be in the case of any other official who is temporarily detained away by illness.

Q. But, of course, you have means of communicating with him? A. I never knew where he was.

Q. I mean in your office. A. I presume so.

Q. You can possibly find out for me during the lunch hour where he is, so that we can communicate with him as well. A. I have no objection.

Q. Did Mr. Fields receive any compensation for the services which he rendered in connection with matters of legislation? A. Not that I am aware of.

Q. These were services in addition to what he was paid his salary for as superintendent of the supply department? A. Well, really you ask me to testify to things that I only know about in a very general way, and if Mr. Fields did anything that he was told to do by Mr. Short or by any other competent authority in the law department, he probably did it. I don't suppose he got anything else but what his regular salary was, because we don't pay double salaries.

Q. Well, it would hardly be a double salary if the work was outside the work for which he was paid one salary? A. Well, however that may be, that is a hypothetical question whether it was or not. Still, I don't know and have no reason to believe Mr. Fields was ever paid anything but his regular salary, if that is what you want me to testify to.

Q. I find several vouchers here in which the payment is recommended by Mr. Fields, and I call your attention to them and ask

*Testimony of Richard A. McCurdy*

if you can make any statement regarding them: February 20, 1905, \$901.15 for services George Plunkitt. Who is George Plunkitt? A. I don't know.

Q. January 15, 1905, \$250, John E. Ash, Jr., legal services. Who is John E. Ash? A. I don't know.

Q. Both of these you will notice are recommended for payment by Mr. Fields.

MR. HUGHES: I would be very glad at any point here to be interrupted by Mr. Allen, if any of these names I mention, are names of lawyers in other States or anywhere, who are rendering services in the usual way.

Q. January 30, 1904, \$300, on account of professional services, Louis F. Murray, recommended for payment by Fields? A. I don't know him.

Q. February 11, 1904, \$225, legal services to March 1st, recommended for payment by Fields, the voucher signed by M. E. Mullaney. Who is M. E. Mullaney? A. I give it up. I never heard of him.

Q. Another voucher of March 15, 1904, \$175, M. E. Mullaney? A. Never heard of him before.

Q. \$150, October 17, 1904, recommended for payment by Fields. William M. Carpenter? A. I am not sure whether I ever heard of him or not.

Q. Another one, December 1, 1904, recommended for payment by Fields, \$230.74, M. E. Mullaney? A. Don't know him.

Q. Another one, January 7, 1904, recommended for payment by Fields for professional services and disbursements, company business, \$725. William M. Carpenter. Who is he? A. The same; I say I am not sure; I don't know.

Q. January 7, 1904, recommended for payment by Fields,

*Testimony of Richard A. McCurdy*

\$1,175, on account of legal services, James O. Lawrence. Who is he? A. Don't know anything about him.

Q. November 10, 1904, recommended for payment by Fields, \$2,250, on account of money paid out for professional services, J. H. Armstrong? A. Don't know anything about him, unless it is that honorable gentleman who looks at me.

THE CHAIRMAN: No such fortune, I think.

THE WITNESS: What? No such good luck.

Q. I show you a voucher, February 1, 1904, \$2,500, for legal services rendered J. Howard, Jr. Who is J. Howard, Jr.? A. He is—was formerly, and still is, a writer for the press. That was in the nature of advertising.

Q. Was that legal services? A. Well, I fancy that was put on there by inadvertence because he isn't a lawyer. At least, I never heard that Joe Howard was a lawyer.

Q. That is under date of February 10, 1904. Now, I show you another voucher under date of May 4, 1905, received from the Mutual Life Insurance Company of New York, \$2,500, on account of professional services, repayable on demand. May 17, 1905, J. Howard, Jr. Can you explain that? A. Probably he—some correspondence—he conducts here a literary bureau, and his office is like that of—it is, so to speak, a public office, in the American Tract Company's building, I think; somewhere up there. He writes for a number of papers, the *Boston Globe*, I believe, and carries on a syndicate of that kind. We have employed him for a number of years.

Q. Well, what are the professional services—those? A. Those services?

Q. Why repayable on demand? A. That I can't say. Perhaps that was an advance on future bills.

*Testimony of Richard A. McCurdy*

Q. Well, I see that it was approved by you? A. Yes, I noticed that myself. I say very likely it was an advance, as a good many people sometimes get.

Q. Well, it was an accommodation, wasn't it? A. No, I don't think it was an accommodation.

Q. An advance for further work? A. An advance for further work that was probably being done.

Q. And what was the nature of that work specifically? A. The nature of the work was general correspondence throughout the press of the country.

Q. And did you understand that that was to be charged to law expenses? A. I fancy not. There is nothing to indicate it. No, I didn't direct it to be charged to legal expenses.

Q. Do you remember how you did direct it to be charged? A. I don't think I directed it to be charged at all.

Q. Whose handwriting is that? "Law"? In blue pencil upon it? A. I can't say; I don't know.

Q. How much money has the Mutual Life paid Mr. Howard a year, do you know? A. My impression is that it pays him somewhat along in the neighborhood of \$2,500.

Q. Well, is it more than that? A. Well, I should say not.

Q. Then, do I understand that in the course of Mr. Fields' work as representing you in matters relating to legislation he could recommend for payment amounts of money and they would be paid upon his recommendation without further supervision? A. I don't know what you understand about it, but I don't.

Q. Well, I would like to have you state what you understand? A. I don't understand anything about it.

Q. Which is quite more to the point? A. I don't understand anything about it.

Q. Well, don't you know anything about the practice? A. No. I see his name on the statement apparently made; also

*Testimony of Richard A. McCurdy*

that it was recommended by Fields. I don't know who wrote that, whether he wrote it himself or who wrote it. I am not familiar with his signature or how it came up.

Q. Who had authority to direct what Mr. Fields should do? A. Well, he was the head of a department himself.

Q. And he could do as he liked? A. Well, not——

Q. He wasn't the head of the Law Department? A. No.

Q. Well, in regard to these matters pertaining to legislation, who could direct what he should do? A. I don't know.

Q. Did you ever direct? A. No.

Q. Did you ever talk with him about what he was doing?  
A. Not specially, no.

Q. But generally? A. Oh, I knew in a general way.

Q. Well, you met him frequently, didn't you? A. No, sir.

Q. Didn't he keep you posted on matters of legislation?  
A. No.

Q. Did you know he had a house in Albany? A. I heard he had two or three years ago, and what I subsequently was informed was a very exaggerated account, that Mr. Fields had a house in Albany. I inquired into it and I was told that Mr. Fields' health was not good, that in order to avoid the exposure to his health and the excitement of living at a hotel, he and some three or four other men together hired a house for the season, and paid \$800 for it, and they divided the expense between them.

Q. What was the season for which they hired it? A. Oh, I don't know.

Q. The winter? A. Probably during the winter, yes.

Q. And who were the three or four men? A. Oh, I don't know.

Q. Did you ever hear? A. No.

Q. Do you understand the climate of Albany was considered preferable to that of Dobbs Ferry? A. No; but I considered that the climate of Albany was such that if a man who was in ill

*Testimony of Richard A. McCurdy*

health, it would be very much more desirable that he should have the comfort of a private house than that he should be subjected to the exposure necessarily incident to going to a hotel and changing rooms and that sort of thing.

Q. That is if his business required his attendance at Albany?

A. If his business required him to be at Albany it would be a great deal better for him to hire a house at \$800 a year for a few weeks, and then divide that with three or four other men than it would be going to a hotel and shifting around from place to place.

Q. How much of his time did his business require him to be at Albany? A. I don't know.

Q. Did you know that it required him to be there at all? A. In a general way, yes.

Q. What did you suppose he was doing there? A. I supposed that he was in general looking after the progress of legislation.

Q. Did he report to you from time to time? A. No, sir.

Q. What did you understand he was doing in looking after the progress of legislation? A. Well, I can answer that in this way, and it differs in no respect in any one state from the conditions in another. We have got about forty-five—between forty-five and fifty legislatures in session every year, and we have got between forty-five and fifty, superintendents, and all these men are of different degrees of intelligence, different degrees of education, different degrees of knowledge with regard to the subject which they are supposed to superintend technically, most of them are honest, a few are dishonest. I don't know—I couldn't mention individuals when I state a general fact of that kind, but you can strike that out if you choose to, if you like—strike it out. Still, legislation has to be watched in every State. If it wasn't watched every corporation like an insurance corporation would be in—would be culpable in not protecting the interests that are entrusted



*Testimony of Richard A. McCurdy*

to it. If legislatures were not watched, were not informed, insurance probably would be legislated and superintended out of existence in less than five years, if it was allowed to run without information on subjects that are brought up for consideration at every session almost. It is the duty of a large insurance company to see that its interests are guarded as much at the capital of a state as in any village or other town in the State, more, too, because there is greater danger.

Q. And that was Mr. Fields' special business? A. I can't say—testify to that, no. I am answering in a general way. As to any specific knowledge of whatever duties were required of him by the law department and by these vouchers you have shown me, they probably did go to the retaining of lawyers and all that sort of thing—why, I don't know where I started from because my mind drifted away, but that there is legitimate and proper use for skilful agents at the seats of legislation everywhere, there is no manner of doubt.

Q. In order to determine the legitimate and proper use of moneys for that purpose, did you insist upon a system of vouchers which would disclose the services rendered by the persons who received money? A. Never insisted anything about it.

Q. Did you regard that as a matter of importance? A. Never regarded anything about it. It wasn't my business.

Q. Did you take any pains to ascertain whether the use of moneys was legitimate or illegitimate? A. I am not aware that I was ever asked any such question by anybody. Mr. Fields' employment as the head of the supply department was well known. He was an official of the company, and if he acted, as I presume he did, in legal matters, under the action of the law department, why, it was correct and regular and proper to assume that everything is correct and regular.

Q. Do you know Andrew Hamilton? A. Never saw him in my life.

*Testimony of Richard A. McCurdy*

Q. Did you know that the Mutual Life Insurance Company had paid him money? A. Never knew it and don't now.

Q. Is it a surprise to you that I should suggest it in my question? A. Quite so, excepting what I read in the paper.

MR. HUGHES: Do you want to adjourn before I go into this?

THE CHAIRMAN: Yes. This afternoon no one will be allowed to stand on these side aisles, and the sergeant-at-arms will be requested to enforce that rule very rigorously. It interferes very materially with the work here for the people to stand as closely as they do.

The Committee will take an adjournment until 2.15 sharp.

AFTER RECESS.

THE CHAIRMAN: Now, the first two rows of seats are reserved for witnesses and counsel. If any others are occupying them except witnesses and counsel they will please vacate the first two rows of seats. This afternoon no one will be allowed to stand on the side aisles. The side aisles must be kept clear.

MR. HUGHES: Mr. McCurdy—is the elder Mr. McCurdy here yet?

RICHARD A. McCURDY resumed the stand.

BY MR. HUGHES:

Q. Have you been able to ascertain during the recess, Mr. McCurdy, what the present address is of Mr. Andrew C. Fields?

THE WITNESS: Mr. Smith, did you find it out?

MR. SMITH: No.

THE WITNESS: I have been so much interested, I have not had an opportunity during the recess, Mr. Hughes, to do more than, as I say, to ask one of my associates to find it out for me, and I supposed he had done so.

Q. I show you a voucher dated May, 1901, for \$3,806.33, for professional services rendered, signed Andrew Hamilton, a

*Testimony of Richard A. McCurdy*

voucher on your company for that amount paid to Andrew Hamilton. Do you know what professional services were rendered by him? A. Not the slightest, I never was aware that he had rendered any.

Q. Then you don't even know the general character of the services rendered by him at any time? A. If you will allow me, Mr. Hughes, I will look this over and see if I can get any idea from the endorsements. I find this endorsement on it, "April 30, 1901. Will you kindly authorize check for \$3,806.33 for Judge Hamilton to the order of Andrew Hamilton. E. L. S. G. S." That means E. L. Short, General Solicitor?

THE CHAIRMAN: Smoking is not allowed in the room during the sessions of the Committee.

A. (Continuing.) And also I find, April 30th, practically the same thing, "Law Department, New York, April 30, 1901, to the Committee on Expenditures. Please authorize the payment of \$3,806.33, check to be drawn to the order of Andrew Hamilton, for professional services rendered, and charged to legal expense account, signed Edward Lyman Short, General Solicitor."

Q. You don't know even the general character of the services rendered? A. Not the slightest.

Q. I call your attention to a voucher of March, 1901, as follows: "Received of the Mutual Life Insurance Company of New York \$2,500 for professional services. Andrew Hamilton." Does your answer apply to that as well? A. Absolutely. I never knew he had rendered any.

Q. Now, will you please look at the memorandum attached to that voucher and read it, unless you prefer that I should do

*Testimony of Richard A. McCurdy*

so? A. I am perfectly willing to read it. "March 6, 1901. To the Vice-President. Judge Hamilton was in to-day and leaves in a day or two for St. Louis via Chicago, the St. Louis Legislature adjourns on the 18th of March. He is to meet in Chicago some people from Wisconsin in regard to matters there. He has asked me to have a check mailed to him in Albany for \$2,500 in connection with Missouri matters. E. L. S., G. S." And then to the Committee on Expenditures a similar request. "Please send to me a \$2,500 check to the order of Andrew Hamilton to be charged to Legal Expense Account. Edward Lyman Short, General Solicitor. Committee on Expenditures ordered paid, March 13, 1901, J. H. Herrick and Robert Olyphant."

Q. What matters were pending in Missouri in connection with which any money was required in 1901? A. I have no idea. Simply that we have had—in Missouri we have had a good deal of litigation over some policies and some matters connected with the insurance law there, I think.

Q. This would appear to have been in connection with the Missouri Legislature, as the note says, "The Missouri Legislature adjourns on the 18th of March." A. Well, that is your inference.

Q. Well, do you think it a just one? A. I express no opinion whatever.

Q. Did you know that Andrew Hamilton was paid from time to time to represent the Mutual in matters relating to legislation in other States than that of New York? A. I never did.

Q. Now, I call your attention to a voucher of April 28, 1903: "Received from the Mutual Life Insurance Company of New York a check for \$13,333 in matter of adjustment of Mutual accounts, A. Hamilton." Accompanying which is the following: "April 28, 1903. To the Cashier: Please send me check for \$7,000

*Testimony of Richard A. McCurdy*

to be drawn to the order of the New York Life Insurance Company for adjustment of Mutual accounts, signed Edward Lyman Short." Same date. "Please send me check for \$6,333, to be drawn to the order of the New York Life Insurance Company for adjustment of Mutual accounts." What Mutual account was there requiring adjustment with the New York Life Insurance Company? A. I have not the faintest idea.

Q. Did you never have any idea that the Mutual and the New York Life were jointly engaged in protecting themselves with regard to matters of legislation? A. Yes, I did have a general idea to that effect.

Q. What officer of the New York Life did you meet in connection with that? A. Never met any one.

Q. Well, how did you get the idea? A. The same as one gets any idea, from the ordinary transaction of business. I think it was assumed, as a matter of course, that the legislation in different States was looked after by at least the three companies and sometimes by correspondence with other companies, but I never wrote any letter about it or knew anything about it.

Q. Did you also have an idea that the Equitable was jointly interested in such matters with your company and the New York Life? A. Yes.

Q. Did you ever meet any one of the Equitable relating to it? A. Not that I recall at the present time.

Q. If the New York Life and the Equitable paid as much as is indicated by that voucher, there would be a total payment of \$40,000 at that time. Do you know of any matters requiring a payment of \$40,000 in or about April, 1903, by the three companies? A. I don't know that they did. I don't know what the adjustment of the—may have been.

Q. Were you so independent of the operations of the legal department that matters of expense in connection with legislation

*Testimony of Richard A. McCurdy*

were never brought to your attention? A. Absolutely, unless there was some reason for it.

Q. Well, was there ever a special reason so that matters were ever brought to your attention? A. Well, I don't recall any at the present moment, but I presume if Mr. Short, if he had any doubt about some question, about his retainer and what not, might come and consult me. If he had no doubt about it he would act upon it himself. That is what a department is for. And if the heads of departments came running to me to consult me about too many details of business there would be a change in the head of the department.

Q. That was true, and that has been true for a series of years in regard to the legal department? A. Yes.

Q. It is practically run automatically, that is without your intervention? A. As my predecessor spoke of all the departments, they are semi-dependent organizations, responsible in a general way to one head, and that is all there is about it.

Q. Now, your legal department, according to your reports, spent last year about \$364,000. What did you do as president to see that that money was properly expended? A. I did all that I was entitled to do—was required to do.

Q. What did you do? A. I accepted the reports.

Q. Did you do anything else? A. Of an honorable gentleman like Mr. Short.

Q. Did you do anything else? A. I wasn't called upon to do anything more than to administer the general affairs of the company in all departments.

Q. And all that you knew was that a certain amount of money had been expended? A. I knew whatever was reported at the end of the quarter or the end of the year, as I have said before.

Q. And that is all you knew about it? A. The details of the law department I didn't enter into any more than the details of any other department.

*Testimony of Richard A. McCurdy*

Q. Did you know anything more about it than that the amount had been expended? A. Probably not unless I was conferred with from time to time in the matter of some matter of interest that had come up in the course of administration.

Q. Do you recall any matter of interest that came up in the year 1904 as to which you were advised or your opinion requested?

A. Not at the present moment, no, sir.

Q. I also call your attention to a voucher dated April 28, 1902, signed by Andrew Hamilton, acknowledging receipt of \$1,666.66, and June 19, 1901, acknowledging receipt of \$1,075.33. You know nothing about those matters? A. Nothing.

Q. Who is William A. Fricke? A. He was formerly insurance commissioner of one of the Western States, I have forgotten which.

Q. Of Wisconsin? A. I think so.

Q. And when did he cease to be such insurance commissioner? A. Some years ago.

Q. (Handing paper.) I show you a voucher under date of January 6, 1904, as follows:

"Received of the Mutual Life Insurance Company of New York, Five Thousand Dollars for special services to be rendered, \$5,000.

"William A. Fricke."

I read upon the record the letter annexed to the voucher. The date is concealed by the voucher, which is pasted upon it, but I presume it is about the same date as the voucher itself.

"Dear Mr. McCurdy:

"Mr. William A. Fricke will accept a retainer to see that the Mutual Life suffers no harm. He will accept the com-



*Testimony of Richard A. McCurdy*

pany's check in his favor and will return from Milwaukee a receipt and retainer for 'special services.' Please direct checks for Five Thousand Dollars, made out and delivered to me to his order, and I will file receipts this week.

"Yours truly,

"Charlton T. Lewis.

"Richard A. McCurdy, Esq., President.

"Endorsed: To the Cashier.

"Check to the order of William A. Fricke, 'special services,' McC., President."

That is your handwriting and endorsement? A. Absolutely.

Q. Do you recall the facts of that payment? A. No.

Q. Does your endorsement refresh your memory? A. No.

Q. What were the special services that Mr. Fricke was to render? A. I have no idea.

Q. Was Mr. Fricke a lawyer? A. I don't know whether he was or not.

Q. Do you know what his business is? A. No.

Q. Do you know what his business was at that time? A. I think Mr. Fricke was an expert assistant accountant, or actuary, I should say, in technical insurance questions, having been superintendent of the Insurance Department of—did you say, Michigan or Wisconsin?

Q. I understand Wisconsin. A. It is not important, unless you think so. But as an expert his service, I presume, was considered valuable by Mr. Lewis, in whom I have the highest regard and esteem and confidence.

Q. Why were the words special services quoted, have you any idea? A. Not the slightest.

Q. In what matters were Mr. Fricke's expert services re-

*Testimony of Richard A. McCurdy*

quired so far as you have any recollection? A. My dear, sir, I have not the slightest recollection of that. That is one of the thousands of transactions occurring in the daily business of a great company, where one relies upon the voucher presented to him, or the recommendation of the office. I cannot tell what business Mr. Lewis had with Mr. Fricke or any others.

Q. This is a very exceptional transaction, is it not? A. No, I should say not.

Q. As a rule, you did not make a payment of five thousand dollars to lawyers for special services, did you? A. No.

Q. Do you know of any other case where you did that? A. No—you may find some, though.

Q. You do not recall any? A. No, but you may find some.

Q. It is entirely out of your practice to O. K. payments for the Law Department, is it not? A. Yes.

Q. Well, in being out of the usual order, can you recall it? A. No, certainly not.

Q. Who is S. S. Olds? A. I don't know him, never heard of him.

Q. I find here a voucher dated Lansing, Michigan, October 18, 1903; \$3,100 received of the Mutual Life Insurance Company of New York, per Mr. W. H. Thummel, \$3,100 to apply on retainer. S. S. Olds, bearing this endorsement, or on a paper annexed to the voucher:

“To the General Manager: Will you direct the cashier to furnish me with thirty-one hundred dollars to be sent by express to-day to S. S. Olds for professional services in the matter of Michigan, one-third chargeable to each of the three companies. E. L. Ashe.”

Do you remember anything of that matter? A. Not at all.

Q. Do you know what matters were pending in Michigan

*Testimony of Richard A. McCurdy*

at or about that time requiring attention? A. No, but since you brought that up, if you will allow me to narrate an incident that the name of Mr. Lewis—that I have not seen for some-time—he died a little over a year ago, but was a most learned and one of the most learned and accomplished men that this country has produced, and if his ambition had been greater than his desire for scholastic occupation he might have adorned almost any position. The Mutual Life Insurance Company had the good fortune to avail itself of the services of Mr. Lewis in many capacities. He was a sound lawyer. He was a very expert mathematician, so that he conferred with the actuary of the company on many difficult questions relating to the mathematical side of the company's operations. He was an expert on all questions relating to taxation. He argued such questions before many committees of the legislatures and upon all questions of general supervision of life insurance companies. I think it has some bearing upon the general question of what a lot of these expenses can be incurred for, because the underlying suggestion undoubtedly is that they are used for an improper purpose. Now, I have said this morning, that in my judgment, legislation ought to be influenced, properly influenced, and the company would be culpable that did not protect its own interests by some proper supervision of the bills that were introduced, or likely to be introduced. As in conforming the legislative mind in regard to it.

Now, the suggestion of the name of Mr. Lewis recalls to my mind most vividly an incident as one that he told me of almost a winter's season being occupied some years ago at and near the capital of a remote state, I have forgotten which it was, possibly it was Michigan or Wisconsin, or Iowa, I think one of those three States. I asked him—I happened to ask him then, as I do not often—probably it was a leisure moment and we were old and

*Testimony of Richard A. McCurdy*

intimate friends, and may have been chatting about the subject. I should take his recommendation as to Mr. Fricke—if Charlton Lewis had recommended me to pay any sum of money in ordinary reason, I should have put my check on it without a moment's hesitation, but the incident he told me was this: He said he had been occupied nearly all winter in attempting to educate, not to corrupt, but to educate the legislative mind in regard to a bill before it. He told me he went first to the capital of the State, he got the red book, or blue book, or whatever it may have been. He found out the localities from which each each member of the legislature and the senate came. He found out all the men, their putative political god-parent, if I may so call them; their relations and influential men, all the men who were influential with them in their neighborhood. He made journey after journey up and down from the capital to this town and that town and the other town, making the acquaintance of these men, and getting them to go there during the session of the legislature. Paid many of them, not all lawyers, they were men who would not leave their business, the presidencies, or cashierships of banks, and make a trip up to the capital of the State unless not only their expenses were paid but something else. He went on further, and he said he went to Washington during that session of the Legislature. It took him some weeks to make the acquaintance of the Senators and members of Congress in the House of Representatives from that date, so that he was able to get upon a friendly footing with them, and that they would listen to him and hear his statement of the damage that would be wrought to the company and to all life insurance provided this measure which was then sent was passed, and he got from them letters of introduction back again, and that was the substance of it, that all that winter he practically had been engaged on that business and without one dollar being expended excepting for the fees paid to lawyers, the ex-

*Testimony of Richard A. McCurdy*

penses paid to laymen, the compensation in many cases paid to laymen.

Q. For what? A. For the services that they had rendered sitting down and listening to Mr. Lewis explain the reasons why he wanted their help and assistance and in taking trips to the Capitol, travelling expenses and compensation for that class of service. And he told me the circumstance without the intimation or the belief on my part he had paid one dollar for anything excepting legitimate purposes, and he charged, I am willing to testify that in my judgment it was a very inadequate sum.

Q. For his services? A. For his own services, he charged \$5,000 beyond his expenses, which were a good many thousand dollars more, how much more I don't know. I give that merely as an illustration and to repel the assumption that necessarily money paid through lawyers and whose names are not given must be improper purposes. It would not be possible or it would not be proper in many case to publish the names of the people that he had employed to help him and who did help him in such a case as that.

Q. Entirely apart from those matters to which you have alluded, we find large sums paid to others on the recommendation of others, for example, of Mr. Fields? A. Yes.

Q. And we find a considerable sum handled by Mr. Andrew Hamilton? A. Yes.

Q. Are you able to state, now that the matter has in some way come to your memory, what those moneys were paid for? A. Not—

Q. For example, we have \$100,000 unaccounted for by any proper voucher paid last year entirely apart from any of these matters you have mentioned, it would seem. Do you know what that was for? A. No. Undoubtedly it was authorized by the proper department, whatever it was.

Q. I was asking you at the time you diverged about F. H.

*Testimony of Richard A. McCurdy*

Olds. Do you know about him at all? A. Never heard of him.

Q. I call your attention to the memorandum attached to the voucher of services in the matter of Michigan, one-third chargeable to each of the three companies? A. Yes.

Q. Have you any recollection what matter there was pending there? A. Not the slightest.

Q. In connection with Mr. Lewis or with anybody elsewhere you have had occasion to know of the work done in behalf of the company, can you recall what the legislation was in any particular case that threatened your company? A. No, it is going on all the time.

Q. Have you as president any recollection of the legislation which you deemed it necessary to oppose? A. Not the slightest. It would not be my province to do anything of the kind. Those things were attended to by other people. If I should undertake to run every one of the departments myself I would run myself under ground in less than no time.

Q. Well, do you supervise any of them? A. As the president of any large company ought to supervise them and not otherwise.

Q. You have been asked with regard to the agency department, you have been asked certain questions bearing upon the expenses and matters of actuarial importance, and you have been asked with regard to the law department. Now, is there any department that you yourself in any effective way supervise as president of the company? A. I supervise them all, but do not participate in the routine or operation of any of them.

Q. Do you supervise any of them more directly than you supervise the agency department? A. No, probably not.

Q. Or the law department? A. Probably not.

Q. Do you recall the proceedings last winter for the pur-

*Testimony of Richard A. McCurdy*

pose of repealing Section 56 of the Insurance law? A. I did not know there was anything of the kind.

Q. Do you know what I mean by Section 56 of the Insurance Law? A. No, sir; I do not.

Q. Let me read it to you: "Section 56. No order, judgment or decree providing for an accounting or enjoining or restraining or interfering with the prosecution of the business of any any domestic insurance corporation or appointing a temporary or permanent receiver thereof shall be made or granted otherwise than upon the application of the Attorney General on his own motion or after his approval of a request in writing therefor by the Superintendent of Insurance, except in an action by a judgment creditor or in proceedings supplementary to execution." A. When was that passed?

Q. Apparently in 1890, Chapter 400 of the laws of 1890. A. I knew there was such an act, yes.

Q. Do you recall the circumstances which led to the passage of that? A. No.

Q. Did you know anything about the attitude of the courts before the passage of that? A. No.

Q. Do you happen to know that the Court of Appeals has held that an accounting could not be compelled on the part of an insurance company for the purpose of enforcing a distribution of accumulations different from that determined upon by the insurance company, in accordance with its ordinary methods? A. I don't think I ever gave any special attention to it. I might have known of it at the time if it had ever been brought before me in connection with any subject which it was necessary for me to act upon then and there.

Q. Is it possible that you, Mr. McCurdy, as president of the company, are not acquainted with the many suits that were brought to enforce an accounting of funds claimed to be distributable under tontine or semi-tontine policies and

*Testimony of Richard A. McCurdy*

the cases that went to the Court of Appeals upon that question? A. Against the Mutual Life?

Q. No, not against the Mutual Life, against the New York Life Insurance Company, but of great general insurance interest. A. I might take a cursory interest in a thing of that kind that I saw reported in the newspapers, but unless it affected my own concern, my own company, it would not make any permanent lodgment in my mind.

Q. Do you recall the passage of this legislation in 1890, after the decision of the Court of Appeals, and largely, as I believe, the Court of Appeals has said itself, in confirmation of its own decision? A. No, I do not recall anything about it.

Q. Do you know why it should have been regarded necessary to get legislation in addition to the decision of the court? A. I do not know anything about it.

Q. You appreciate the position of the companies as they stand to-day protected not merely by precedents but protected by a positive statute upon the question of such suits? A. That is the statute you have read?

Q. Yes. A. I should say it was a very adequate law.

Q. Do you remember that last spring an effort was made to repeal that? A. No——

Q. Don't you recall—— A. Oh, yes, excuse me. I believe Senator Brackett did introduce a bill, did he not?

Q. Yes. What attitude did you take in regard to that? A. None.

Q. Was that one of the sort or species of legislation which you thought your company should oppose in the interest of policyholders? A. It never was brought to my attention in that way at all.

Q. Now, a former Commissioner of this State, a man of great repute and ability, was William Barnes, was he not? A. Yes.



*Testimony of Richard A. McCurdy*

Q. You knew him in former years? A. I formerly knew him, I have not seen him in many years.

Q. He is a man of great distinction and an insurance expert? A. Yes.

Q. Did not you pay him to oppose this bill? A. Not that I am aware of.

Q. I mean when I say you your company, of course? A. Not that I am aware of. Oh, wait a moment, until I recall. In the sense in which you asked the question, my answer is quite accurate. But some time recently, I think this Fall, I received a letter from Mr. Barnes in which he stated that he had appeared before committees, and in which I think he sent a bill in, and in which he stated he had appeared before committees, and argued matters, and so on, and that was the first of it, and whether he enclosed a bill to me or not I do not recollect.

Q. Well, I have here the voucher which I have asked for and which your company has produced, which I will read.  
A. May I take a look at it?

Q. Certainly.

(Handing paper to witness.)

A. I will wait until you get through.

Q. I will give you full opportunity to look at it. A. All right.

MR. HUGHES: The bill is as follows:

· *Testimony of Richard A. McCurdy*

"493 State Street, Albany, N. Y.

"September 11, 1905.

"The Mutual Life Insurance Company of New York,

"To William Barnes, Sr., Dr.

"To services as counsel on three hearings on oral and printed argument on insurance bills before the Codes Committee of the Senate and Insurance Committees of the Senate and Assembly at the Legislative Session of 1905, the sum of \$1,000.

"Received payment.

"Stamped 'Reommended for payment.' The Law Department, by Frederick L. Allen, in charge. September 13, 1905. Approved payment."

Accompanying that is this note:

"September 12, 1905.

"493 State Street, Albany, N. Y.

"September 11, 1905.

Mr. Richard A. McCurdy, President.

"Dear Friend:

"I enclose bill for \$1,000 for three arguments last winter. Judge Andrew Hamilton of the New York Life sent me a check for \$1,000 about July 11th, and wrote me that he had written Mr. Short to do the same for the Mutual, but Mr. Short's illness and its fatal termination prevented any action upon his part, and I never heard from him or the general solicitor's department.

"If satisfactory, please send me a check and I will return receipt.

"I am very much obliged for your favors in this direction.

*Testimony of Richard A. McCurdy*

We expect to move to Nantucket in about two weeks, but as I wrote you, I will be ready to answer any calls when I can be of service. Nantucket is only thirteen hours from Albany,  
Your old friend,

“William Barnes, Sr.

“P. S.—You can gather that we were very successful. The test vote in open Senate being, I think, 36 to 7 in our favor.—  
W. B.”

And appended is a note of the acting general solicitor as follows:

“To the President:

“The bill referred to by Mr. Barnes in his letter was the bill introduced last winter in the New York Legislature providing for a repeal of Section 56 of the Insurance laws which provides that no decree providing for an accounting or enjoining, restraining or interfering with the transaction of the business of any domestic insurance corporation shall be made or granted otherwise than upon the application of the Attorney General. For your information I send herewith printed copy of the argument made upon this bill. As you know the bill was defeated. Mr. Barnes is correct in his statement that Judge Hamilton did write to Mr. Short stating that on behalf of the New York Life he had paid him \$1,000. Mr. Barnes also wrote a letter to Mr. Short, which I acknowledged, and explained Mr. Short's illness prevented the matter being taken up at that time. It has been my understanding that we were to pay the same amount as the New York Life. If there is anything further I can do, I would be pleased to have you let me know. F. L. Allen.”

*Testimony of Richard A. McCurdy*

"To the Law Department:

"Mr. Barnes' bill is approved by the president for payment in the manner customary in such cases. Mr. Allen's signature will be honored by the cashier in this and other usual cases requiring the vise of the head of the department.

"McC., President."

That matter is correctly stated, I suppose, in these documents? A. Yes, sir; it is correctly stated. This is the letter which I said at first, when you asked me if I had known anything about it, I said no, I did not. But in thinking it over at the moment it occurred to that Mr. Barnes had written me this letter, a letter with regard to some measure, stating that he had appeared as counsel for the company before committees of the Legislature, and that I had approved the bill. This is the bill and on the statement of Mr. Allen, in charge of the department, I made that endorsement. The endorsement is fuller than has usually been the case. My action generally would have been merely to have put my initial on it and it would have been paid. The reason why it is fuller than it would have been in ordinary cases is that in consequence of the recent death of Mr. Short, the solicitor, no appointment had been made of any person to take his place. I was not ready yet to submit any definite nomination to my board for the place, and in this I did both things, I approved the bill and authorized Mr. Allen to be practically the acting solicitor until a further nomination was made.

Q. Now, this was a service no doubt rendered with a great deal of skill, as we know the ability of Mr. William Barnes and his experience in these matters, but I would like to have you state in what sense it was in the interest of the policyholders to oppose the repeal of section 56? A. I think it is doubtful whether I paid the slightest attention to what the service was, any more than as

### *Testimony of Richard A. McCurdy*

I testified to you just now—I think I testified that I didn't know that Mr. Barnes had been employed. A recommendation came to me from the acting head of the Department accompanied by a letter, and I think this letter was addressed to me—allow me for a moment—I don't see—there is no special evidence of how that got—that letter of Mr. Barnes's got before the Law Department, unless it was that, as I am very apt to do, there came a letter and I chucked it over across the table to my secretary in opening my mail in the morning, and he sent it into the Law Department in the usual way.

Q. What I want to direct your attention to is the possibility, in case matters of this sort are left to the Law Department without the supervision of the responsible executives, that matters might be opposed that are in the interest of the policyholders. Has that occurred to you? A. If the general solicitor was not competent to decide that I would get another one.

Q. The fact is that you have not regarded it as your duty to see whether the legislation opposed was that which should be opposed in the interest of the policyholders, or not? A. I think not. I have credited the heads of the different departments with some degree of intelligence to act on their own initiative.

Q. Now that the matter has been brought to your attention, I would like to have your opinion as an insurance man, on the advisability of opposing in the alleged interest of policyholders the repeal of Section 56. A. If you will allow me to reflect over it at night, I will depart from my usual custom of reading a novel and give it attention and answer you in the morning.

Q. But with your present knowledge can you not give an opinion? A. I would rather not express an opinion on an act of the Legislature without giving it serious consideration.

Q. Is it usual in the Mutual Life Insurance Company to pay out moneys as an honorarium without regard to services rendered

*Testimony of Richard A. McCurdy*

in particular cases? A. Let me know what the case is and I will answer you then.

Q. I thought this might be typical. I will show you that I had in mind (handing papers to the witness). A. Do you know whether William A. Barnes, Jr., is a lawyer or not, Mr. Hughes? I don't know whether he is.

Q. I do not. A. Well, I don't know. I don't think he is.

Q. I think he is an editor of the Albany Evening Journal, and in which case I judge he used the word "honorarium" in only the colloquial sense and not with the legal distinction you would draw between an honorarium and a retainer.

Q. Taking it according to your discriminating judgment, is it the practice of the Mutual to pay moneys where services have not been rendered in recognition of the esteem in which they hold the payee? A. Neither as an honorarium, or as a donation.

Q. That is not done? A. Not that I am aware of.

Q. Then, this that is referred to here is for services actually rendered? A. I have no doubt of it, that Mr. Barnes, Senior, being a lawyer by profession on the rôle of retained attorneys of the Mutual Life Insurance Company, and under the responsibility of that retainer to furnish his professional services at any time, and I take it that the services rendered by and a retainer in many cases is not the actual rendering of a service, then and there, but it is the fact of a lawyer's keeping himself in readiness to serve his client and refusing other engagements which would be in conflict with it, and it is the option which you have on his services, whether for a particular season or any other time, whether he may or may not render any specific service. If you will allow me to read the letter, Mr. Barnes, "the honorarium which the Mutual Life, with other companies, was kind enough to confer upon my father, William Barnes, has customarily been paid on July 1st each year. I trust you will pardon me bringing to your attention the fact that the Mutual Life has not yet sent a check."

*Testimony of Richard A. McCurdy*

That justifies the assumption, and Mr. Barnes, Sr's., receipt and his return—the son returned his father's receipt, "Received \$666.66, signed William Barnes, Consulting Counsel." I take it that is a good consideration.

Q. What was the regular retainer? A. Oh, I don't know anything about it; I didn't know we had done anything of the kind, as I told you, until a little while ago I happened to locate that; only a month or two ago. I had gotten a letter from Mr. Barnes, from whom I hadn't gotten a letter for many years.

Q. How many lawyers are there throughout the country who are insurance experts and in a position to render services as is Mr. Barnes, under retainer by your company? A. Mr. Allen is over there. He can answer the question.

MR. HUGHES: Can you answer, Mr. Allen?

MR. ALLEN: I can make up a statement if you desire that information. I will get it.

MR. HUGHES: I will be very glad to have it.

THE WITNESS: I didn't catch Mr. Allen's answer.

MR. HUGHES: He said he was unable to state at the moment, but he will be glad to furnish the information if desired.

THE WITNESS: I shouldn't know myself. I haven't the faintest idea.

Q. Now that the matter has been brought to your attention can you recall any one else? We have Mr. Fricke. I suppose

*Testimony of Richard A. McCurdy*

he belongs in that category? A. Well, if you have got any other vouchers there just bring them right out and I will tell you all I know about them.

Q. You have Mr. James F. Pierce? A. Yes.

Q. Do you recall any others? A. Why, no. But if you have got any evidence of any others then you will refresh my recollection and I would be able to let you know.

Q. I don't know whether we have or not. It is rather difficult to go through the books, but if you can facilitate our labors we should be very glad to have you do so? A. No, no, no, I don't recollect.

Q. I find here a couple of vouchers which I will refer to: "October 4, 1904, received of the Mutual Life Insurance Company \$1,560.87, money paid out for legal services and disbursements, company's business, A. C. Fields." In the other cases we had recommendations for payment to a third party. There it seems Mr. Fields had paid this money and then recouped himself. Do you know whether or not that was a common thing? A. No, but that would be a very proper thing. When Mr. Fields was rendering a bill for somebody else he certified it and recommended it to the Committee on Expenditures for payment, and when he is collecting money for his own disbursements he put in a bill in his own name and had it submitted to the committee before it was paid to him. That is highly proper.

Q. I find here a letter, "Sandusky, Ohio, April 22, 1905, Robert A. Granniss, Vice-President of Mutual Life Insurance Company, New York: Dear Sir—If you will instruct the proper officer to remit to me \$600 to services rendered as per agreement, you will oblige, yours truly, David M. Arndt," which bears this endorsement: "If this is the usual time for this payment you may send check. Granniss." Do you know what that means, "if this is the usual time for this pay-



*Testimony of Richard A. McCurdy*

ment"? A. Probably I should say, although I know nothing about it, that Mr. Arndt is in the habit of sending in an annual or a semi-annual bill. That is all I know. July, August, September; that would be about the end of the third quarter. January, February and March, you see it would run April, May, June, July, August, September.

Q. As I understand it, there were a good many payments made through Mr. W. F. Thummel, as well as through Mr. Fields and Mr. Hamilton? A. I think you understand it so.

Q. Well, that is right, isn't it? A. Well, I don't know, my dear sir. I don't want you to put words in my mouth—or rather, to impute a language to me which I don't use. While I believe it has appeared in evidence here that Mr. Thummel has been in the employment of the company and is traveling around, and I have no doubt he has expended money, and as I say, received compensation for his own services.

Q. Here is a voucher of Boston, January 19, 1904: "Received of the Mutual Life Insurance Company \$1,000 on account of services rendered. W. J. Holden." Who is Mr. Holden? A. Well, that is in 1890.

Q. 1904, isn't it? A. Well, I happen to know something about that which otherwise I shouldn't have been able to testify to—

Q. This is 1904, isn't it? A. Yes, 1904. Quite accidentally I saw his name in the evidence given in a part of this examination in which I think it was stated that he had been the company's representative.

Q. Now, if you will proceed and pardon me. A. I say I happen to know something about it in a general way, as I remarked about other things, because in reading the papers some of the evidence taken at this investigation, I saw the name of Mr. Holden who testified, or somebody else testified that he had been the legislative agent in Boston, and I in-

*Testimony of Richard A. McCurdy*

quired into it. I asked Mr. Granniss what that meant, and he told me that the Legislature of Massachusetts either now or formerly required every corporation proposing to—or desiring to be represented before the Legislature, to appoint a legislative agent, and the appointment was filed, and I think a license was given for him to appear before committees and so to represent the company, and that Mr. Holden had been our representative there at one time, and so that the retainer of Mr. Holden in Massachusetts was one compulsory on the company to retain somebody, and an open affair.

Q. How much was he paid a year? A. Oh, I have no idea. I did not know we paid him everything until I asked Mr. Granniss the other day and he told me about it.

Q. Then you don't know whether he appeared before any committee? A. No, it wasn't necessary for him to appear before any committees, but before the session Mr. Granniss told me it was necessary to appoint a legislative agent, and being a legislative agent, I never knew anyone in such a position as that who didn't send in a bill for something, regardless whether he did anything or not.

Q. Who is Edgar W. Rogers? A. I don't know, unless you have something to the contrary there.

Q. All I have is that he was paid an amount charged to legal expenses November 12, 1902, \$1,657.60. Does that recall anything to your memory? A. No.

Q. Is he connected with the Globe Printing Company? A. Not that I know of.

Q. Do you know any Rogers that is connected with the Globe Printing Company? A. I heard the other day that there is a man connected with the Globe Printing Company, I believe, named Rogers.

Q. Is his name Edward W.? A. I don't know what his name is.

*Testimony of Richard A. McCurdy*

Q. Or Edgar W.? A. I don't know his name, and I don't know the facts.

Q. The Globe Printing Company has a very large share of your printing work, has it not? A. That I can't say. I don't look over the printing bills, sir.

Q. Do you exercise any supervision over the printing or stationery? A. No, sir. That is what the superintendent of the Supply Department is paid for.

Q. It has been brought to our attention that in 1904 the printing and stationery expenses, as reported in your report of December 31, 1904, amounted to \$601,101.21? A. Yes.

Q. Are you acquainted with that fact? A. If it is in the annual report I have seen it at some time or another, yes.

Q. Did you read the annual report when it was gotten out? A. It is always submitted to me. I present it to my board.

Q. Do you sign it? A. No, I don't.

Q. Who does? A. The auditing committee and the auditor. The auditor signs it first and then submits it to the auditing committee and they hand it to the president and the president submits it to his board.

Q. Then it was brought to your attention that in 1903, as appears by the annual report of that year, the printing and stationery amounted to \$680,849.35? A. Whatever appears in that report was undoubtedly reported.

Q. These figures I should say are not taken, as they are here, from the annual report; they are in that report collated with other items, but were taken from your ledger, which was produced the other day. It also appears that in prior years the amounts expended for printing and stationery have been upwards of \$500,000, and in 1902 \$627,000. Did you make any examination for the purpose of ascertaining whether those expenditures were justified? A. I did.

Q. What examination did you make? A. On two occa-

*Testimony of Richard A. McCurdy*

sions I came to the conclusion from what I believe miners call surface indications, that the printing and stationery bills were too large, larger than I thought they ought to be. I can't distinguish as between what incidents—as between the incident on the two different occasions, what in particular I did do either time, but I know that I waked up a good many people in the Supply Department. I had samples of all the stationery furnished to the company brought up into a room adjoining mine where they could all be laid out—had quite a storehouse of them at one time—samples of everything from pins up to letterheads and so on, and I had the bills of it submitted to me. I had the quality of the goods submitted to me, and on one or other, or both of these occasions, I ordered a lower grade of stationery supply, lighter letter paper, cheaper paper for circulars, and I also ordered estimates to be furnished to the Supply Department, Mr. Fields in charge, before any order were thereafter given. I went quite thoroughly through it on one of those occasions anyway, and spent considerable time on it.

Q. When were those occasions? A. Oh, I should think one of them would be within three or four years, and the other one within five or six.

Q. Well, did you notice that despite that the printing and stationery bills increased? A. I can't say that I followed the thing up further.

Q. Did you make any effort to ascertain whether your suggestions were adopted? A. Well, I fancy it was evident by the quality of the stationery supplied on my table that I couldn't help seeing, but that is pure guesswork, you know, Mr. Hughes.

Q. But not on the outlay? A. You know most of these things you have asked me are pure guesswork. How on earth can I testify to these things.

*Testimony of Richard A. McCurdy*

Q. You can't unless you have some knowledge on the subject. A. No; certainly not.

Q. Who is Lysander W. Lawrence? A. If that is his name—I don't know whether you have got the middle name right—

Q. Well, we will call him Lysander. A. Well, we will call him Lysander, that is a good name for short. He is the head of the firm of—yes, that is right, L. W. Lawrence & Company, that is right.

Q. Who are the other members of the firm? A. I think one of them is—who is that?

MR. ROBERT H. McCURDY: I don't know whether Mr. Ballard is or not.

THE WITNESS: The other is a young man that I know and I have forgotten his name at the moment. Well, I will think of it presently. It will come to my mind before long, but I have forgotten for the moment.

Q. How long have you known Lysander Lawrence? A. Possibly twenty-five years.

Q. How long has the Mutual been buying stationery from him? A. Possibly that length of time.

Q. Did you know his brother, Dwight Lawrence? A. I had a slight acquaintance with him in his life-time, yes.

Q. Was he clerk of the Senate in this State? A. I don't know.

Q. Do you know another brother of his, Anderson Lawrence? A. Never heard of him.

Q. When you examined into the matter of printing and stationery, did you ascertain whether there were any competitive bids asked for? A. I don't think I can. I directed

*Testimony of Richard A. McCurdy*

that there should be, yes. I do recollect that some other bids were presented, but whom they were from I can't tell.

Q. Did you go far enough to ascertain that the bulk of the printing and stationery was furnished by two concerns, Lawrence & Company and the Globe Printing Company? A. No.

Q. Do you know now that that is the fact? A. From hearsay, not from anything else.

Q. Well, from hearsay within your office or within your company? A. Oh, yes.

Q. There is no question about the fact—— A. I don't think there is.

Q. That they have the great bulk of the work? A. I don't think there is any question about it, but, as a matter of positive knowledge, I haven't it.

Q. Do you know whether there is any competition between the Globe Printing Company and Lawrence & Company? A. That I don't know anything about.

Q. Do you know who is in the Globe Printing Company? A. I don't know anything about it.

Q. Do you know that Lysander Lawrence is the treasurer of the Globe Printing Company? A. I don't know anything about it.

Q. Do you know that Edgar W. Rogers is the president of the Globe Printing Company? A. I don't know anything about it.

Q. Or Louis F. Ballard is the secretary of it? A. Louis Ballard is the name of the person I was just trying to think of.

Q. You mean that Louis Ballard is the partner of Lawrence & Company? A. The junior partner of Lawrence & Company.

Q. And that he is the secretary of the Globe Printing Company? A. I don't know anything about it. You say so.

*Testimony of Richard A. McCurdy*

Q. I was putting it as an interrogation whether you knew or not? A. No.

Q. Has it ever been brought to your attention that the Globe Printing Company and Lawrence & Company are practically the same people? A. No, I don't know anything about it. In the first place, the Globe Printing Company I don't think was ever heard of before—well, a good many years ago I heard that a Globe Printing Company had a strike in its office, and then I asked what the Globe Printing Company was. That is all I know about it.

Q. Does the Globe Printing Company do much work for other people besides the Mutual? A. My dear sir, excepting you had brought it up, I should have forgotten that there was such a thing as the Globe Printing Company in existence.

Q. Do you know how much money the Mutual Life paid them last year? A. Certainly not, how should I?

Q. I should think it would be an easy thing to ascertain. A. I haven't been asked to.

Q. You haven't paid attention to that? A. What difference does it make?

Q. Of the six hundred and one thousand dollars for printing and stationery in 1904, how much of it did the Globe Printing Company get? A. You know, but I don't.

Q. You attribute too much to me. I don't know exactly. I should like to have you state. A. You know so much, Mr. Hughes, that I think you know more than I do about a great many things.

Q. There are a great host of vouchers which we have not been able to add. It would take some time to add them together, and I thought it would save time if you could give me approximately the general statement subject to correc-

*Testimony of Richard A. McCurdy*

tion? A. Do you think I have had time to add them up in my head?

Q. No. But I should suppose that you knew something about it. A. No, sir.

Q. You couldn't contend that one set of people should practically control your printing and stationery supply, would you? A. Yes.

Q. Why? A. Because I should be the one that controlled it.

Q. What? A. Because I would be the one that controlled it.

Q. Well, do you control it? A. Undoubtedly the company does.

Q. Well, the company, but you, what do you do about the control? Do you see that they pay or ask proper prices? A. Well, you asked if any one person should control the printing and supply account of the Mutual Life Insurance Company, and I say yes.

Q. Who is he? A. The company ought to control it itself.

Q. Who represents the company in doing it? A. The Supply Department and the Committee on Expenditures.

Q. You mean Andrew C. Fields? A. Not necessarily Andrew C. Fields. Andrew C. Fields, as has been shown, is away at the present time and ill. He has got assistants and competent assistants, to carry it on for the time being. The Supply Department is an organization, it is like a locomotive or any other machine that moves automatically when the right man shoves the lever, or pulls the throttle, which ever is the correct engineering expression.

Q. What I was getting at is, whether it always moves in the same direction, and I want to know whether that had attracted



*Testimony of Richard A. McCurdy*

your attention? A. What? Whether the Supply Department moves in the same direction?

Q. Yes, and spends a great deal of money with Lawrence & Company and the Globe Printing Company, and what you have done about it? A. I have done just what I have told you I have. I have tried to pull up that question of expenses and make them spend less, and I think I succeeded for a time at any rate.

Q. Can you now recall more definitely when that was, and the extent of your success? A. No. Well, I could if I went back and got my secretary to pull out old memoranda in my desk. I could probably find out, if it is important enough I will.

Q. Here are the reports: 1898, for printing and stationery, \$473,523.84; 1899, \$581,783.21; 1901, \$519,750.30; 1902, \$627,984.23; 1903, \$680,849.35; 1904, \$601,101.21. Now, precisely where did your reductions take effect? A. I can't tell, but it is entirely within the realm of possibility that in one of those years the expenditures of the company for printing and supplies, except for my intervention, might have run very much above the figures you have quoted.

Q. Do you recognise the necessity for intervention and some care and supervision? A. I recognized—at the time, as I say, I got the impression that the stationery was costing us too much money, and I looked into it, as I testified before; I looked into any department of the company which to my mind at the moment required special attention. If I am satisfied or think that everything is going on all right, why then I don't.

Q. The question was asked the other day by your counsel whether any officer of the Mutual Life in any way participated in the profits of Lawrence & Company. I want to ask

*Testimony of Richard A. McCurdy*

you the same question as to the Globe Printing Company? A. Absolutely.

Q. Not? A. Absolutely not.

Q. Has any officer or employee of the Mutual Life, so far as you know, any interest in the Globe Printing Company?

A. Not the slightest; no reason to suppose it and don't believe it.

MR. BECK: Mr. Hughes, I want to correct a misstatement you made unintentionally in addressing the witness. I don't mean it was the fault of an interrogation, but it was a statement, that is that all of the printing and stationery went to Lawrence & Company and the Globe Printing Company. That is a mistake. It is not so.

MR. HUGHES: I don't think I said all. I think I said the bulk of it.

MR. BECK: No, you said it all went to Lawrence & Company and the Globe Printing Company.

MR. HUGHES: If I said all I was inaccurate, but it is a very large proportion of it.

MR. BECK: While dwelling on the mistakes of Moses, you also said the expenses for printing and stationery increased each year, while the figures you have read show that in 1904 those expenses decreased \$80,000.

MR. HUGHES: I read the figures and they speak for themselves, and furnished a correction if any was needed. I do not think any was needed. I want the witness to state just where his reduction came in. Now, if it came in in 1904 and

*Testimony of Richard A. McCurdy*

the difference between \$680,000 and \$601,000 was due to what he did in 1904, I would be very glad to have him say so and explain.

THE WITNESS: Well, as I said before, there is an improvement of that kind—repeat your figures over. Was there a diminution in one year of \$80,000?

Q. There was, according to your ledger, from 1903 to 1904, and if that was the year you intervened I should be very glad to know it? A. I don't know anything about it, but I presume it may have been.

Q. Was it ever in any way brought to your attention that any moneys were charged to printing and stationery that should not have been charged there? A. No.

Q. Are you prepared to say that all the charges to the printing and stationery account were for printing and stationery, so far as you know? A. Well, I am trying to see just how I ought to answer that question with entire justice to myself as well as to the Committee. I have no personal knowledge on the subject, and I am not aware that I ever have had any personal knowledge on the subject whatever. I have a right to assume that the accounts of the company are accurate, and are correct, and that is all I can say about it.

Q. You had no information to the contrary? A. No. I can say that with entire frankness.

Q. Do I understand you have never heard of anything of that sort? A. No, sir; you do not. I have heard all sorts of rumors, and I have read a lot of it in the newspapers.

Q. Well, outside of what the newspapers may have said, in your office or in your connection with the Mutual Life? A. I never knew or met anybody in my life who I believe would make an affidavit on the subject.

*Testimony of Richard A. McCurdy*

Q. Without any affidavit on the subject, has any rumor ever reached you in the routine of the Mutual Life matters that have come to your attention? A. Latterly, during the progress of this investigation I have heard a good many statements of that kind, as I say, unverified and unsupported by any evidence. But as to any knowledge or information, based upon the knowledge of other people that there was anything wrong in the affairs of the Mutual Life Insurance Company, I have never had reason to believe.

Q. Where did you hear these rumors? A. Oh, my dear sir, you can't press such a question as that; you can't open a newspaper here without——

Q. I am not talking about newspapers, I am talking about what comes to your ears as president of the Mutual Life from persons connected with the Mutual Life in the ordinary transactions of your business at present. Has anything come to you there? A. Oh, I meet the officers of the company and the trustees of the company a dozen times a day in and out. How can I tell every fugitive conversation that takes place, and this, that or the other thing? Now, it is just as vague as that. I am entirely—you are asking an impossibility of me, Mr. Hughes, and that I want to be entirely sincere about; entirely sincere about.

Q. Do I understand that you are not prepared to deny that a trustee of the Mutual Life has brought such a matter to your attention? A. That I am not prepared to deny?

Q. Yes. A. I am not prepared to assert it, if that is what you mean.

Q. You say that it has not been done? A. No; I mean to say that the question may have come up at any time on this subject of expenses of the supply department or for stationery, and all that sort of thing.

Q. Come up with your trustees or one of them? A. Oh, I

*Testimony of Richard A. McCurdy*

don't know; passed in one ear and out of the other; the chat that goes on around a lunch table or on a ferryboat or in a cab or anything of that sort, the various whims of the moment, and that sort of thing, who can remember? I don't. I don't charge my mind with them.

Q. Well, it was something important to charge your mind with if one of your trustees suggested it, wasn't it? A. I never said one of my trustees suggested it.

Q. Do you say that is a fact, that one of your trustees has suggested it? A. No, no, no. I say, as a matter of illustration, that I might have talked to the—with the vice-president or one of my trustees, or the medical director—hardly with the bootblack, because I don't talk with him.

Q. Well, have you talked with the vice-president or the medical director on this subject? A. I might have.

Q. Recently? A. I don't know that that I ever did.

Q. Have you talked with anyone connected with your company on the subject? A. I have not, as a matter of positive recollection, knowledge that I talked with anyone.

Q. What occasioned your uncertainty in answering my question? A. Because—I have forgotten what your question was now—I wanted to think a moment and see whether I had any definite recollection of the matter or not. I believe in the probing business, and I think you have probed pretty thoroughly on that subject now, and I am prepared to say that so far as I recollect—not in that sense—that I don't recollect that I ever had any distinct conversation with anybody on the subject.

Q. You won't say that you recollect that you have not had? A. No, I won't say that. I don't recollect it at all.

Q. Now, when this matter came up, or in any way was brought to your attention, did you institute an investigation? A. You are assuming that it did come up.

*Testimony of Richard A. McCurdy*

Q. Have you instituted any investigation of the matter?  
A. No; I never have; I never have instituted any investigation, excepting, as I say, I looked over the accounts on a couple of occasions and I tried to reduce the expenses of the supplies and stationery.

Q. And when have you examined the accounts of the printing and stationery department to see if any moneys charged to that department had gone for other purposes? A. I never did.

Q. Have you now under investigation that subject? A. No; not at all. You have, I believe. That is unnecessary.

Q. I would be very glad if you would aid us in that particular. A. What?

Q. I would be very glad if you would aid us in that matter.  
A. Well, I am trying to aid you now all I can.

Q. The question has been raised here of moneys expended by the Mutual Life for luncheons. I suppose those luncheons were for the clerks? A. All the persons in the employment of the service, except, I mean, all those that are rendering industrial services, or domestic services, if you can call it that way.

Q. What do you mean by industrial services? A. I mean to say scrubwomen and elevator men and policemen and engineers and electricians and people of that kind. Those we don't furnish any lunch to.

Q. How many on the average take lunch in the Mutual Life Building? A. I am informed about 600.

Q. That is an average throughout the year? A. Yes; I am so informed. I know I kept tally last December—I am always in the habit of meeting, and very glad of having an opportunity to shake hands with the gentlemen in the Mutual Life Insurance Company whom I am prevented from seeing at any other time of the year, and at the close of the year they

*Testimony of Richard A. McCurdy*

come up in the board room and I have a little reception, and they shake hands with me. I am very glad of the opportunity, and I had a tally kept last year about the number that I shook hands with the day before Christmas, and it was something over 700, but that included a few friends from out of town—I don't mean to say from out of town, but from outside of the office, who came in, knowing I was in the habit of having that kind of a reception, and as I say, I had a tally kept, and I know that I shook hands with over 700, and with the exception I mentioned, they were all employees of the Mutual Life.

Q. Have you made any examination of the matter for the purpose of ascertaining what it cost per head to feed the clerks? A. I have heard it stated to be about forty cents.

Q. Who has charge of the auditing of the accounts and expenses for that purpose? A. I presume the auditor.

Q. Mr. Preller? A. Yes.

Q. Anybody else? A. Why, it would come before the Committee on Expenditures.

Q. Do the officers lunch in the building? A. Yes.

Q. Is there a chef there? A. There is a man cook, if you choose to call him a chef, yes.

Q. What is his salary or wage? A. I don't know.

Q. Is there any stock of wines kept in the building? A. Not that I am aware of.

Q. It has been, as one of the rumors currently reported, that you have a stock of wine in the Mutual Life Building. That is not true? A. I believe it to be untrue.

Q. Don't you know one way or the other? A. Why, I know, to the best of my knowledge, that we haven't got any, but I couldn't swear to it. I don't believe it. I never heard that we had a wine cellar, and I am informed that we do not keep anything of that kind on hand.

*Testimony of Richard A. McCurdy*

MR. BECK: Mr. Hughes, I spoke to the caterer about it at the time, and if you care to have this indirect information I can tell you. He said in the first place, that there was no wine in the cellar; in the second place, as every officer of the Mutual Life who lunches there knows, there is no wine served. When we were entertaining the French Chamber of Deputies there was a modest glass of wine served. As far as Dr. Parkhurst's terrapin is concerned, I have never seen it and I think no other officer of the company has.

Q. Is there anything in the statement that the caterer sometimes goes to Albany? A. (Laughing.) That is a new one, Mr. Hughes. I haven't got onto that yet.

Q. Is there anything in it? A. That is too absurd almost—I withdraw the comment. There isn't, so far as I know.

Q. Well, I am very glad to have you take the opportunity of stamping these things as utterly without foundation, if they have none. A. If you think that of sufficient importance to press, I will say it is an entirely new suggestion to my mind, and—I won't go further, that is enough.

Q. Well, you are prepared to swear that is isn't so? A. Oh, yes.

Q. I find here a voucher under date of May 22, 1903, for the payment of ten thousand dollars as the first payment under contract of that date to T. H. Bowles. Who is he? A. He is a man who was formerly an agent of ours.

Q. How long did he remain such agent? A. Several years.

Q. About how long? A. Well, may I see that voucher? Has that anything to do with the period? (Voucher handed witness.) I suppose that is about the time that Bowles settled his suit against us. I don't know.

Q. Aren't you mistaken in that? A. Well, very likely I am.



*Testimony of Richard A. McCurdy*

Q. That says the first payment under contract. It wasn't the settlement in the latter part of the year 1903? A. Well, I don't know; it was done by the Law Department.

Q. What was his suit against you? A. Well, as I recollect it, he was removed for cause, as we considered it, and there was a dispute over claims made on his part for allowance by the company that the company didn't recognize, and he brought a suit against us and he organized a campaign of appeals to policyholders and statements of a very misleading character, and that sort of thing, and after a while the thing was settled. I don't know anything about it.

Q. What was the cause for which he was dismissed? A. Insubordination.

Q. In what way did he show his insubordination? A. When—I have forgotten the exact sequence of the events, but I think when the initiative was taken and the effort to change Bowles' agency from a general agency system to the managing system, which I have described before, like some of the other general agents, he had opposed it. It is one of the difficulties that I have had to deal with, as I testified the other day, for seventeen or eighteen years. Just as soon as you touched a general agent's commission account and endeavored to save money in that way for the company by transferring his business to the books of the company, so that thereafter it should practically cost the company little or nothing, why just as soon as the pockets were touched of some of them why they would, like Bowles, make difficulties of various kinds. We had arrived in the regular and systematic prosecution of that effort at Mr. Bowles' agency and he availed himself of the opportunity to obstruct the attempt to bring back the company's own business into its own custody, into its own hands, by addressing a letter to the trustees of the company in which the president was denounced and a variety

*Testimony of Richard A. McCurdy*

of allegations were made which were distinctly subversive of discipline, and I forthwith removed him.

Q. Did he send a copy of this letter to the different members of the Board of Trustees A. He did to many of them; I presume he did to all.

Q. Did he place it with you before he sent it to the members of the Board A. I cannot recollect.

Q. Have you that letter or a copy of it? A. I don't believe I have. I might find one somewhere.

Q. Is that on the files of the company? A. I doubt whether it is.

Q. Why do you doubt it? A. Because I don't believe that sufficient importance was attached to it to place it on the files of the company.

Q. You mean it was destroyed? A. Well, I don't know where the letter would—I wouldn't keep it.

Q. It was an official document, wasn't it? A. It was addressed to me, and to——

Q. As president? A. And I believe it was addressed also to each member of the Board.

Q. Wasn't that kept upon the files regularly as a part of your correspondence? A. No, Mr. Hughes.

Q. You wouldn't know where to find a copy of it now? A. No, I would not.

Q. You say that he made statements reflecting upon the president. Did he charge that there was extravagance in the management of the company? A. I have no recollection of what he charged now. He probably did. That is the kind of thing they would all be likely to say, that is an insubordinate——

Q. Is that your recollection, that he did? A. An insubordinate agent would be likely to say something of that kind. I have no recollection about it. If you will allow me to state

*Testimony of Richard A. McCurdy*

the facts, Mr. Hughes, I may save you some trouble in asking questions. The matter came up, as I said—I think I saw Mr. Bowles once or twice, and I didn't want to have anything more to do with him, and I removed him for insubordination. He then wrote these letters that I told you about, and I brought the matter up before the Board, in a colloquial kind of way, and the Board was good enough to refer it to the president's power.

Q. Do you recognize that as a copy of his communication (handing paper to witness)? A. No.

Q. Just look at it and see? A. No, I cannot—and if you will allow me to finish—and when they referred it to me with power I wasn't going to have anything more to do with him; I just signed it over to Mr. Short and let him settle it.

Q. Who referred it to you with power? A. The Board of Trustees, unanimously.

Q. Did they read his letter? A. I don't believe they did.

Q. They referred it to you without looking into the charges which were made? A. I guess so, yes.

Q. Did you read his letter? A. No.

Q. And you discharged him without looking into the charges he made? A. I read enough of them to know he deserved it and that was all there was about it.

Q. Did you think it was a proper ground for criticising an agent who sought to bring to the attention of the Board that there was needless expense in the management of the company? A. If an agent was insubordinate he deserved to be dismissed anyhow, and then, if he had charges of that kind to make he could make them in some other way, but not as long as he remained an agent of the company and the president had any authority.

*Testimony of Richard A. McCurdy*

MR. ROGERS: Mr. McCurdy, excuse me. Some of the members of the Committee say they cannot hear you.

THE WITNESS: I am sorry to say, as I endeavored to say the other day, I have a little hoarseness which I cannot control, and constant speaking, as I have been subjected to to-day, increases it as the day wears on. If I attempted to use my voice more forcibly I could not be heard as well, I think.

BY MR. HUGHES:

Q. Had Mr. Bowles been a successful agent in his field?

A. Yes; he was.

Q. He had been successful first in the South and then in the West? A. He had.

Q. Did he indicate his insubordination in any other way than by bringing to your attention what he deemed to be abuses in the management of the company? A. He brought the attention to what he deemed, or confessed to deem, abuses of various kinds, to my attention, when in the progress of the desire to introduce the change into the agency system of the company, which had been in progress for a number of years, and when his turn came, then he turned rebelliously, if I may so speak, insubordinately, and tried to throw a handful of mud at the administration of the company. That is all there was about it.

Q. Well, his insubordination consisted in the handful of mud? A. Well, probably, yes.

Q. And the handful of mud was in this communication? A. Probably.

Q. And it involved charges of extravagance in the manage-

*Testimony of Richard A. McCurdy*

ment of the company? A. What—you have got it in your hand?

Q. Yes. A. I have not seen it. What was the date of it? How long ago was it?

Q. November 29, 1902. A. Yes.

Q. I think you are probably right about that voucher. I think it was 1903? A. Yes. This has brought up the subject of the agency system of the company incidentally, and I want to say a word or two very briefly on that subject in order to prevent a misconception—

Q. Will you postpone that, Mr. McCurdy, because that is not the matter I am dealing with now? You will have a full opportunity— A. If you will give me an opportunity later—

Q. Yes, you will have an opportunity to deal with it fully. A. I want to address myself to that subject, because left just where it is, it is liable to misapprehension.

Q. Now, I find in this paper, which I understand to be a copy of the letter which I use subject to correction, the following: "The management of the Mutual Life Insurance Company has disregarded every principle of sound and economic life underwriting to satisfy a personal ambition to write a large business, and even to the extent of creating a fallacious business on the books of the company and in its sworn annual statement. It has employed incompetent men to fill important places, and maintained them only by the expenditure of unlimited sums of the company's money. It has given the most important and remunerative positions in the government of the company to men whose highest recommendation is their kinship with the chief executive." Did you regard that statement as an act of insubordination involving discharge? A. I probably should.

Q. Was it not rather a statement that called for an inves-

*Testimony of Richard A. McCurdy*

tigation on the part of the trustees of your company? A. Not at all.

Q. Did it not bring to your attention the question of the amount of profits which were made by C. H. Raymond & Company and the advisability of your looking into that matter? A. I have told you before that I thought the profits made by C. H. Raymond & Company were legitimate, and certainly no such communication as that would influence me to swerve from my course of management of the Mutual Life Insurance Company by a hair's breadth. It was entitled to no consideration whatever.

Q. Did any of your trustees when this document was presented containing that statement ask any explanation from you as to the relatives of yours employed in the company and their compensation? A. Nobody ever did. Several of them sent me the communications and announcing that they had received it, I think one or two handed it to me in person, that happened to be near, and I got two or three letters from other members of the Board of Trustees and that is all there was about it. I said, when at a subsequent meeting of the board, not long after, I thought it was of sufficient importance, as I believed he threatened a suit, and I believe he did begin a suit to bring the matter up in a rather informal kind of way before the Board and they referred the whole matter to me with power, and I thereupon promptly turned it over to Mr. Short, and then he settled it later on.

Q. Do you remember that one of Mr. Bowles' grounds for criticizing the management of the company was the creation of an executive special department? A. I don't recollect anything he charged. He probably charged everything he could think of.

Q. What was the executive special department? A. I want to answer that in this way. The great bulk of agents of the

*Testimony of Richard A. McCurdy*

Mutual Life Insurance Company of New York, the overwhelming majority of them, have always been staunch and true and loyal to the company, and I believe they are to-day. But one bad egg in the platter will spoil the best pudding there ever was. When I succeeded to the presidency, I think I testified the other day, before very long I was convinced that some of the general agents were retaining too much of the commissions allowed them on their business for future accumulations for their own sake, and not spending it as they ought to do in prosecuting the new business of the company, and I endeavored to get at that fact. I found soon that I was touching a very tender spot, and I deemed it unwise at that time to prosecute my endeavors to change that system then and there. I think I indicated in my evidence the other day that the chief competitors of the company were then doing more annual business than the Mutual Life Insurance Company and that the condition of the company was practically stationary, if not retrograding. I thought it was my duty to change that relation of things, and in the prosecution of those efforts my attention was drawn here and there to what I believed to be the fact, that the money allowed for commissions to some of the general agents was not being employed as it should be employed. I found, to repeat, that it was a delicate subject that I had better let alone for the present, because what I was then after was the development of new business of the company. So that I felt that the United States of America was practically closed. I had too many other things to do just then. The policy contracts of the company were necessary to be revised and reformed and made more attractive, so that the agents could sell them, as they call it, could sell a class of manufacture that was adapted to the wants, or the assumed wants, or the tastes at any rate, of a community at the time, and not the wornout merchandise

*Testimony of Richard A. McCurdy*

that we had been dealing in for some time before. So, as I say, practically, the United States was sealed to me unless I took my attention away from the increase of new business and devoted it to uprooting abuses in isolated cases, and thus going back and around by various devices to the principle which I have advocated for many years.

Q. What was the executive special department? A. If you will allow me I will come to that. In that attempt, that came on later, but at first after renewing and revising the contracts of the company and looking about to find out where I could develop the business of the company without more friction than was wise at that moment, I perceived that Europe was open to me. There was no pre-empted territory there. There was no man with a contract in which he claimed vested rights either of territory or remuneration or anything else. The field was virgin, and yet I personally had no knowledge of the conditions of the insurance business in the countries of the old world. Before taking any step in that direction I looked at it in every aspect that I could with very great doubtfulness at first, almost with fear and trembling, because it was an entirely new field, and I had no experience in that field myself, and I could only guess at what the possible outcome might be, and my only source of information in that respect was what my competitors had accomplished in their work, what they paid for it I did not know, how they got their agents I did not know. Under those circumstances I sought a man who possessed those necessary qualifications, and whom I could personally rely on, and the company could be absolutely sure of. I took my own son. He had passed, before being fitted—or a part of the time when he was fitting for Harvard College, he had been educated for about three years in Italy and France and in Belgium, where they speak French and Dutch, too. He was practically familiar with those



*Testimony of Richard A. McCurdy*

three languages. He knew to a very considerable degree the social customs to the extent that any young man may observe them. He spoke, as I say, three languages, and he knew something, a working knowledge, perhaps, of a fourth, German. I knew he was perfectly acquainted with the business of the company because he had served five years in the office of Charles H. Raymond in this city, the largest general agency that the company had. He was perfectly familiar with the methods, system and practice of the management of the Mutual Life Insurance Company in its agency department. He did not need to be taught anything. He was competent to go right there, and more competent than I was, because he spoke languages which I did not speak. I knew that he was perfectly faithful to the New York Life and I knew that he was true to me, and I don't know any other man's son in this city or anywhere else who filled the requirements so completely as the man that I appointed then to establish agencies abroad. That is why I went abroad. Now, you may think this is rather prolix, but it is introductory to the introduction of the executive specials. That was a system I believe in vogue more or less with some of the other companies where the territory was districted out to general agents, some of them claimed prescriptive rights. They claimed exclusively territorial jurisdiction, and I think the principle, the practice if not the principle, was recognized in some of the other companies, that they needed a stirring up by a sort of cohort or brigade of flying artillery, men who were skilled to present the advantages of certain classes of policies made specially for them to men of wealth and prominence in the different localities, who should not interfere with the ordinary clients which the agents around in the country and the town of his residence would expect to gain. But we set to work to find out who in the different towns, all over the United States,

*Testimony of Richard A. McCurdy*

where was the president of the National Bank in a certain town who takes \$100,000 and had not yet been insured in the company? Where was such another man? or principal, or what not, who wanted to carry \$100,000, \$75,000 or \$50,000, whose business justified it, and who had not got a policy in the company, and if he had not got a policy in the company, why hadn't he got a policy in the company, why had not the local agent, living there all his life, or two or four or six or twenty years, as the case might be, had not got that man? It was evident that if he had not got him up to that time he never would do it, and we were doing him no injury to send a special executive down there to get that risk, that he had never got. That was one of the methods that was in use at that time by the Mutual Life and by the other companies to increase its business, and with the purpose of organizing its permanent agency business and infusing new life into it, and stimulating the agents, many of whom were, as I say, most of them, faithful and devoted to the service of the company, but yet for a variety of reasons might have become inefficient or indifferent or unproductive to a degree, and stimulate the entire business of the company with a kindly spirit to the general agents and local agents in a way which practically would not interfere with them, and yet would stimulate them to renewed efforts, so that the business of the company might be largely enhanced. That was the reason of establishing the special agency department, precisely as I have said, to give you the reason of going abroad, to try and do business in other countries. And that was a method that was adopted in addition to a variety of other proceedings taken by me, many of them attempted, many of them abandoned, some of them experimented with and found not to be adapted to produce the results I wanted, and dropped. So we started a special executive agency department.

*Testimony of Richard A. McCurdy*

Q. I will come later to the question of the foreign business. I understand what you mean by executive specials to be agents sent out specially by the executive to get big business? A. Yes.

Q. Now, it was Mr. Bowles' charge that a good deal of that business was given away, was it not? A. I don't know.

Q. Well, you knew at the time, does not that recall it to your memory? A. No, I do not recall anything about his—I disposed of it once for all. I did not bother my head about things that somebody else in whom I have entire confidence has undertaken the charge of and whom I know to be competent and in the line of their duty.

Q. Have you no recollection of the fact that Mr. Bowles submitted to the Board of Trustees and to you a statement of the ratio of lapses upon the company's policies, and claimed that that statement demonstrated the fact that a large part of the company's business had been given away? A. It would not have made any difference if he did. I should have assumed that it was a lie.

Q. Well, did you assume it was a lie without investigating it? A. I presume that the bulk of that stuff was a lie, yes.

Q. Did you investigate the charge? A. Certainly not.

Q. Did any of the trustees ask you to investigate the charge? A. Not one of them.

Q. Did you make any examination to ascertain whether any of the executive specials had been guilty of rebating? A. Not if it was based upon any allegations contained in that statement, no.

Q. Based on anything? A. Well, now, let us see. It may bring up another subject, and—yes, I may say in a general way that the subject of rebating was one that has given very considerable concern, as I believe, to all the managers of the principal life insurance companies, I believe it goes without

*Testimony of Richard A. McCurdy*

saying, that no life insurance company wants to give away its premiums. I do not suppose that you or anybody else would assume for one moment that a life insurance company desires that its agents shall share their commissions with the public, and thereby inevitably increase the amount of commissions that are ultimately paid or agreed upon. The company does not want to do anything of that kind, and I believe that all the companies discourage rebating just as much as they can.

Rebating has been a subject of frequent consideration and frequent efforts have been made to eliminate it as a practice in the administration, I think, of all the leading companies, and it has at the present time diminished—it is very largely diminished, but it has not been entirely diminished.

Q. Well, did you investigate this in connection with the question of the executive specials? A. No, I never had that particularly, so far as I know, brought to my attention.

Q. Did you know that in the endeavor to write large risks of some of these important men that you have mentioned there was a temptation that an allowance would be made against the premium? A. I was aware of the fact that there is a constant attempt made by people who are solicitors for insurance to divide his commissions with the intending applicant or the applicant who is solicited for his application. And the agent does not want to give away his commission, he wants to keep it for himself, but the public insists upon it, and have insisted upon it, and in a certain sense the agents have been robbed of the just reward of their labor by being compelled to reluctantly take their half a loaf instead of the whole loaf of bread to which they were entitled. Now, there has been a great injury to all the agents who have been endeavoring to solicit life insurance and earn their living in that way, that they have been forced to divide what was their legitimate

*Testimony of Richard A. McCurdy*

earnings with the public that has demanded some return for itself.

Q. Has it ever been brought to your attention that when a general agent has refused to permit a rebate that the matter has been taken over his head to the officers of the company?

A. What?

Q. Has anything of that sort ever come to your attention?

A. Just let me have that again.

Q. That where a general agent has resisted the temptation to allow a rebate, the matter has been taken over his head to the officers of the company at the home office. Has anything of that sort ever occurred? A. Why, it is not the general agency that the rebate is demanded of, it is the soliciting agent, it is the man—unless either you or I—I don't understand you or you don't understand me.

Q. I understand the general agent is in charge, and yet in important risks he might be personally cognizant of the fact and he might personally have something to do with the writing of the insurance. I want to know whether it has ever occurred, so far as you know, that a matter has been taken out of the general agent's hands and a policy arranged for directly from the home office of the company? A. No.

Q. Nothing of that sort has occurred? A. No.

Q. When Mr. Bowles made the charge that these executive specials were not getting 100 cents on the dollar in selling insurance as they put it popularly, did you think that was a ground for removing him? A. For removing Mr. Bowles.

Q. Yes. A. I don't think that he put anything of that kind in this paper—I don't think I read far enough. I know he was defying the order of the president of the company, and I had authority, if I did not possess it inherently, I had it by specific authority from the by-laws to dismiss any general agent, and I removed him on the spot.

*Testimony of Richard A. McCurdy*

Q. What authority of yours had he defied? A. He defied my authority as president of the company.

Q. In what respect? A. That letter itself was enough to cause the removal of any general agent, and no president of any company who had such an insurrectionary document as that, containing all sorts of charges against himself and the managers, whether true or false, could maintain his position in self respect for one moment if he did not dismiss him.

Q. You do not mean to say that if a general agent brings to you his belief that there are abuses in the management of the company which should be corrected and requested you to rectify them, that you would treat that as a ground for dismissal? A. I deny his belief.

Q. You do not mean you would dismiss him for such a thing as that? I mean to say when Bowles did that I dismissed him and he ought to have been dismissed long before. It would have saved me trouble if I had dismissed him long before.

Q. Were you aware that he had gone to considerable pains to establish his allegations by presenting a series of tables compiled from your records? A. Why, I don't know.

Q. You did not pay any attention to that? A. He had a lot of figures there—why, I think I did. I am trying to recollect if you will give me a moment. Why, yes, that was the part I think—I realized it later, I don't think I did at first—I think that was a part of their scheme to make trouble from the beginning. And he came to New York and professed to have a lot of facts that he had dug up, from the report to the company, and he said or assumed that I did not know, and he wanted to inform me about them. So I think I said to him: "Why go ahead and put them in shape and let me see what they are. I will be glad to know it." At that time he was general agent of the company, although he was beginning to show signs of a desire

*Testimony of Richard A. McCurdy*

to make trouble, but the time had not come yet, and I did say to him, yes, put your things together and let me see what they are.

Q. And when he did put them together and submitted them to you, you discharged him the next day? A. Oh no, not at all.

Q. What? A. Not at all, not at all.

Q. How long did you have this paper before you told him he was dismissed? A. I think some months.

Q. What? A. Some months.

Q. You are now thinking, I guess, of your original interview, and perhaps it would refresh your recollection if it were suggested that after the interview in which he asked for an opportunity to present the matters and you said that you would be glad to receive them, a considerable period elapsed, and finally I think he sent it to you and then you discharged him at once, did you not? A. No, I think not. No, I think not. It was not in consequence of his complying with what I asked him, to go and produce some figures.

Q. No, but because of his production of this statement? A. Well, the fact is, Mr. Hughes, this is one of a great many transactions that take place in a company like the Mutual Life, and the exact sequence of events I do not know. The fact is that, as a kind of resort to keep him quiet, I may have told him, "Oh, get your figures in writing and I will see what they are." And then they came along, and I think, as my recollection is, as I always go, I was not going to act to investigate all those facts and figures at all; I could not do it.

Q. You did not read it at all? A. Oh, yes, that first one, and I turned it over to the actuary, I guess.

Q. Did you read this statement we have been talking about? A. I did not read that big thing.

Q. Well, this is the big thing he submitted. A. No, I think there was a paper before that. As I recollect, he got up some-

*Testimony of Richard A. McCurdy*

thing—I never asked him to get it up—if I had asked him to do a thing of that kind I would have been crazy.

Q. Well, whatever was done about it, when he was discharged it was followed by a policyholders' movement, was it not? A. No.

Q. What did happen? A. By Bowles' movement.

Q. Well, by Bowles movement among the policyholders? A. Yes.

Q. To which the policyholders to some extent responded? A. I don't know about that.

Q. Well, you got a number of letters, didn't you? A. I doubt it, I doubt it. I guess we got some.

Q. Well, there has been no other movement of this sort in many years, has there? A. No.

Q. This is the only one? A. Yes.

Q. And you know a good many policyholders got together and had a secretary and had a number of meetings? A. No, I don't know anything about it.

Q. You don't know anything about it? A. No. Mr. Bowles got a man, a lawyer, a very reputable man, Mr. Usher, I think, and he had a perfect right to become counsel for Mr. Bowles in any proceeding of what he deemed to be of a legitimate nature, but I think they undertook to get up a policyholders movement, but I do not think they did to any great extent.

Q. Well, to some extent? (No reply.)

Q. (Handing paper.) Do you recognize that collection, for example, of policyholders' letters? A. I don't know anything about this thing.

Q. Ever see it before? A. It is not attested by anybody and not verified by anybody. It professes to be a compound lithograph and printed thing. I do not know anything about it.

Q. Do you recognize that (handing paper)? A. I do not know anything about it.



*Testimony of Richard A. McCurdy*

Q. Now, does it bring to your recollection at all that there was some movement among the policyholders? A. Not any movement that Bowles did not start.

Q. Well, why did you settle the suit? A. Settle the suit?

Q. Yes. A. Well, I do not want to be disrespectful to the Committee, but I think a farmer is justified in buying a rifle to shoot a skunk instead of engaging him at close quarters.

Q. Well, there were some disagreeable consequences anticipated, I take it from your metaphor? A. There would have been some disagreeable consequences, it was better to reach him at long distance by rifle bullets

Q. So it was only to get rid of his troublesome agitation? A. Well, to get rid of him, not so much troublesome agitation, but to get rid of the man.

Q. Well, I suppose the man and the agitation were largely identified, were they not? A. Why, the agitation, so far as it went at all, was due to the man himself. That was all there was to that.

Q. Before leaving this matter of the vouchers that we were talking about a while ago, Mr. Fleming called my attention to this voucher, recommended for payment by Mr. Fields, one of January 7, 1904, \$1,175, signed by James O. Lawrence, do you know who he is? A. No, I don't know him at all. You spoke of Mr. Fleming. Would you mind pointing out who Mr. Fleming is?

Q. He is my assistant counsel. A. I know he is, but I have not had the pleasure of meeting him.

Q. Do you know Louis F. Murray? A. No.

Q. There seems to have been a payment of \$350 in January, 1904, recommended by Mr. Fields? A. No, I don't know him.

Q. There is another matter that is pertinent to the subject we were discussing early in the morning. Do you recall a

*Testimony of Richard A. McCurdy*

time when the Mutual Life took very decided action in opposition to Tontine policies? A. Yes.

Q. Were you an officer of the Mutual Life at the time? A. Yes.

Q. Did you approve of that action? A. No, in a qualified sense, so far as I understood the principle of the tontines then, there were objectionable features to it that were not inherent in the mere system of deferring dividends. Have you anything in your hand which will refresh my memory?

Q. I was going to call your attention to this, which I have received as a facsimilie of a circular issued by a Mutual Life Insurance Company, through Byron Sherman, agent in St. Louis. A. In what year?

Q. It does not give the date, but F. S. Winston was president, so it must have been, I take it, before 1885. A. Yes.

Q. And it bears this, which purports to be a facsimilie of the original statement: "The Mutual Life Insurance Company of New York issues all kinds of legitimate life and endowment policies and the premium rates are lower than those of any mutual company in the world, but it does not issue tontine policies, nor encourage any one to engage in the tontine game. The principle of the game is to rob the unfortunate by canceling their policies without consideration when it is found impossible to raise the money for premiums.

"And the object of the game is alleged to be the opportunity for companies which pay very small dividends to conceal the fact for a term of years called a 'tontine period.' We advise every man to be aware of any company which engages in the tontine game." A. Yes.

Q. Was that ever put out by the Mutual Life Insurance Company in the first place? A. I don't believe it ever was, because it is not the style of composition that either I or my predecessor have been in the habit of using.

*Testimony of Richard A. McCurdy*

Q. Was that official attitude, leaving out the unfortunate rhetoric of the statement, and taking simply the substance of it, was that the attitude of the Mutual Life at that time?

A. I do not think it was.

Q. What was your attitude when you were vice-president as to deferred dividend policies? A. My attitude was to obey the orders of my superior officer. I told you the other day that in his prime my predecessor was, I think, generally admitted to be the ablest man in the business, but that he could not help growing old, and as he grew old he was perhaps a little more incapable of duly considering or adopting—I will put it rather—of adopting new ideas and practices. He was opposed to the tontine business, which was an entirely different thing, as it was originally presented, from the modern deferred dividend policy.

Q. Yes, you refer now to the forfeiture feature? A. The early forfeiture feature and classification of lists.

Q. What did you mean when you said a moment ago “in a qualified sense” you were opposed to it? A. What was the question?

Q. When I asked you as to your attitude toward tontine policies years ago? A. My individual attitude?

Q. You said something about in a qualified sense. A. I have forgotten what the question was.

Q. The question was whether you are opposed to tontine policies. A. Why, I or the Mutual Life?

Q. You. A. I was a subordinate officer and I wore a lieutenant’s uniform and epaulettes, and I carried out the orders of my own superior officer.

Q. What was your own judgment? A. My superior officer opposed——

Q. What was your own judgment? A. My idea was that if the Mutual Life had adopted the policy at the time The New

*Testimony of Richard A. McCurdy*

York Life and the Equitable did it would have left them so far behind that they would only have been a speck of smoke on the horizon. That was my judgment at the time, but my loyalty to my superior officer prevented me from urging it to him. His mind was set on it, and he did not like it.

Q. You have not changed your opinion in regard to that? A. I have not. I may have signed official documents, as I would, supporting the policy of loyalty to my superior officer, as long as he was in charge.

Q. Does that loyalty to superior officers, and absolute recognition of their right to control the policy of the company, still obtain in the Mutual Life? A. I think it does.

Q. You were mentioning a little while ago the considerations which led you to start a foreign business? A. Yes.

Q. And the circumstances which led you to put your son in charge of the foreign business? A. Yes.

Q. What led you to give him a commission of five per cent? A. At that time any form of commission was experimental and tentative. We did not know what any of the other companies, that is, the New York Life and the Equitable, were paying their agents abroad. We did not know what was necessary to get the business over there, and what it was necessary to pay sub-agents or anything of the kind. Five per cent commission on collections, I guess, was one of the residuums of my experience as a little collecting lawyer in early days. I think that was about the amount then.

Q. It does not extend to large amounts, does it? A. There were no large amounts then.

Q. Then it was a dangerous subject to generalize from? A. Well, it was found five per cent did apply to large amounts it was cut down, but that is more pleasantry than anything else. To come down to the facts, it was experimental. Nobody in the Mutual Life knew what to charge, what the business was likely

*Testimony of Richard A. McCurdy*

to be or likely to cost, and we fixed it—somebody did—I did not—I do not hesitate to say that I had a natural feeling of delicacy about it and I preferred my associates should legislate on a question of that kind and not myself.

Q. Who did fix it? A. To the best of my recollection, when I determined, or when the Board determined—I should say, I don't like to fall into the habit of using the pronoun in the first person too much—but when the Board, in the project of establishing business abroad, in the open Board, two or three times, determined to go there and authorized it, I think I appointed a commission to consider and to lay down the conditions upon which the business should be established, and the general agency operated. That consisted, to the best of my recollection now, of Mr. Robert Sewell, who was one of the counsel of the company, and a member of the agency or Insurance Committee, I have forgotten which, I think the Agency Committee, I think it consisted of the auditor, Mr. Waterhouse, he was, he is not living any longer now, and he had had very considerable experience in various branches of the company, and somebody else, that I cannot name just at present.

Q. Mr. Sewell was Mr. Pierce's partner? A. Yes, he had been in early days.

Q. And counsel to the company. Who was Mr. Waterhouse? A. He was the auditor of the company. He had been successively as bookkeeper and secretary, I think, and, well—he had grown up from his school days. His father was the first clerk that the Mutual Life Insurance Company ever had employed and he grew up as a little boy in the company.

Q. You do not mean to say that you left to the auditor, and to a lawyer who was maintained as counsel to your company, the fixing of your son's compensation? A. As a temporary and experimental thing, why not? Who could I find?

*Testimony of Richard A. McCurdy*

Q. Well, did you, whether it was a good thing or not, that is the fact? A. It was the fact that I did leave it to them, and I don't know of anybody else at the time to look into it or attend to it.

Q. Did it occur to you that this business might be successful? A. If I had not thought so I would not have gone into it.

Q. Did it occur to you that you should fix a limit over which the compensation should not go, that he should have five per cent. up to twenty-five thousand dollars a year, that would be a pretty good compensation? A. You don't know what you are talking about, Mr. Hughes.

Q. Well, what was the period? A. When was the foreign business started?

MR. BECK: 1886.

THE WITNESS: 1886, that would have been about nineteen years ago.

Q. Your son had been out of college about five years? A. I think six years.

Q. Did it occur to you that if this business was successful that those commissions would run into very high figures? A. It would not be improper—improbable.

Q. Thinking of that, why did you not fix a maximum sum beyond which the compensation should not go, at a dial mark which you thought under all the circumstances was sufficient? A. Because I am neither omniscient nor infallible, I do not claim either quality.

Q. You think it would have been a good thing to do, had you thought of it? A. I stop my answer right there. I did my best under the circumstances, as I always tried to do.

*Testimony of Richard A. McCurdy*

Q. Did you contemplate at the time that your son took charge of the foreign business that it would be as lucrative as it proved to be? A. I did not know anything about it at that time. It was pure experiment and pure hazard. Nobody could know.

Q. Why did not you give him a salary justified by his experience, and take the risk of it as a company, and also take the risk of making a great deal for the company? A. I have no doubt, that if you had been president of the company at that time, you would have done a good many things that I would never have dared to do.

Q. You had the compensation of your son entirely in your own control, did you not? A. You can ask me a lot of questions about that thing until the shades of night fall. All I can say is that I did the best that I knew, that my experience and my conscience indicated I ought to do, and I believe that it was right and just under the circumstances now.

Q. And you have no further explanation to make? A. And I have no further explanation to make of things that occurred eighteen years ago.

THE CHAIRMAN: The meeting to-morrow will take place in the Aldermanic Chamber at 10.30 A. M. All witnesses who have been subpoenaed for to-day are requested to be present at 10.30 o'clock to-morrow morning.

(Adjourned to October 18th, 1905, 10.30 A. M.)











